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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 13 मार्च, 2020

का.आ. 421.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री राजीव कुमार के स्थान पर श्री देबाशीष पण्डा, सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय, नई दिल्ली को तत्काल प्रभाव से अथवा अगले आदेशों तक, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में निदेशक के पद पर नामित करती है।

[फा. सं. 7/4/2020-एसी]

ए. के. दास, उप सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 13th March, 2020

S.O. 421.—In exercise of the powers conferred by clause (d) of sub-section (1) of section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, hereby nominates Shri Debasish Panda, Secretary, Department of Financial Services, Ministry of Finance, New Delhi as a Director on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD), with immediate effect or until further orders, vice Shri Rajiv Kumar.

[F. No. 7/4/2020-AC]

A. K. DAS, Dy. Secy.

नई दिल्ली, 24 मार्च, 2020

का.आ. 422.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में निदेशक डॉ. अशोक गुलाटी को केन्द्रीय बोर्ड, आरबीआई में निदेशक के पद पर बने रहने तक अथवा तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में नामित करती है।

[फा.सं. 7/11/2018-एसी]

पी. के. सिंह, अवर सचिव

New Delhi, the 24th March, 2020

S.O. 422.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, in consultation with the Reserve Bank of India, hereby nominates Dr. Ashok Gulati, Director Central Board, Reserve Bank of India (RBI) on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD), coterminous with his tenure as Director, Central Board, RBI or for a period of three years or until further orders, whichever is earliest.

[F. No. 7/11/2018-AC]

P. K. SINGH, Under Secy.

नई दिल्ली, 21 मई, 2020

का.आ. 423.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (2) के साथ पठित उप-धारा (1) के खंड (क) और धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के मुख्य महाप्रबंधक, श्री गोविंद राजूलू चिंताला (जन्मतिथि: 15.07.1962) को पद का कार्यभार ग्रहण करने की तिथि से उनकी अधिवर्षिता तक अर्थात् 31.07.2022 तक अथवा अगले आदेशों तक, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के अध्यक्ष के पद पर नियुक्त करती है।

[फा. सं. 7/7/2018-एसी (खंड-II)]

ए. के. दास, उप सचिव

New Delhi, the 21st May, 2020

S.O. 423.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 6 read with sub-section (2) thereof and sub-section (1) of Section 7 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government hereby appoints Shri Govinda Rajulu Chintala (DoB: 15.07.1962), Chief General Manager, National Bank for Agriculture and Rural Development (NABARD) as Chairman, NABARD with effect from the date of his taking over charge of the post till his superannuation i.e 31.07.2022, or until further orders, whichever is earlier.

[F. No. 7/7/2018-AC (Vol.II)]

A. K. DAS, Dy. Secy.

नई दिल्ली, 21 मई, 2020

का.आ. 424.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 के खंड (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, केनरा बैंक के महाप्रबंधक श्री शाजी के. वी. (जन्म तिथि: 30.05.1970) को पद का कार्यभार ग्रहण करने की तिथि से 5 वर्ष की अवधि के लिए अथवा अगले आदेशों तक, दिनांक 01.05.2019 को उत्पन्न होने वाली प्रथम रिक्ति के प्रति, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के प्रबंध निदेशक के पद पर नियुक्त करती है।

[फा.सं. 7/7/2018-एसी (खंड-II)]

ए. के. दास, अवर सचिव

New Delhi, the 21st May, 2020

S.O. 424.—In exercise of the powers conferred by clause (3) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government hereby appoints Shri Shaji K. V. (DoB: 30.05.1970), GM, Canara Bank as Deputy Managing Director, National Bank for Agriculture and Rural Development for a period of 05 years with effect from the date of his taking over charge of the post, or until further orders, whichever is earlier against the 1st vacancy which arose on 01.05.2019.

[F. No. 7/7/2018-AC (Vol.II)]

A. K. DAS, Dy. Secy.

नई दिल्ली, 21 मई, 2020

का.आ. 425.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 के खंड (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के मुख्य महाप्रबंधक श्री पी. वी. एस. सूर्यकुमार (जन्मतिथि: 28.07.1963) को पद का कार्यभार ग्रहण करने की तिथि से उनकी अधिवर्षिता तक अर्थात् 31.07.2023 तक अथवा अगले आदेशों तक, दिनांक 01.06.2019 को उत्पन्न होने वाली दूसरी रिक्ति के प्रति, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के उप-प्रबंध निदेशक के पद पर नियुक्त करती है।

[फा. सं. 7/7/2018-एसी (खंड-II)]

ए. के. दास, उप सचिव

New Delhi, the 21st May, 2020

S.O. 425.—In exercise of the powers conferred by clause (3) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government hereby appoints Shri P.V.S. Suryakumar (DoB: 28.07.1963), CGM, National Bank for Agriculture and Rural Development (NABARD) as Deputy Managing Director, NABARD with effect from the date of his taking over charge of the post till his superannuation i.e 31.07.2023, or until further orders, whichever is earlier against the 2nd vacancy arose on 01.06.2019.

[F. No. 7/7/2018-AC (Vol. II)]

A. K. DAS, Dy. Secy.

नई दिल्ली, 4 जून, 2020

का.आ. 426.—भारतीय जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, एतद्वारा, श्री राजेश वर्मा, सचिव, कार्पोरेट कार्य मंत्रालय (एमसीए) को तत्काल प्रभाव से अथवा अगले आदेशों तक, जो भी पहले हो, श्री इंजेती श्रीनिवास, पूर्व सचिव, एमसीए के स्थान पर उक्त निगम में सदस्य के रूप में नियुक्त करती है।

[फा. सं. 14/3/2003-बीमा-I]

अंशुमन शर्मा, निदेशक

New Delhi, the 4th June, 2020

S. O. 426.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation of India Act, 1956 (31 of 1956), the Central Government hereby appoints Sh. Rajesh Verma, Secretary, Ministry of Corporate Affairs (MCA) as member of the said Corporation *vice* Shri Injeti Srinivas, erstwhile Secretary, (MCA) with immediate effect and until further orders.

[F. No. 14/3/2003-Ins.I]

ANSHUMAN SHARMA, Director

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 16 मार्च, 2020

का.आ. 427.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, ट्यूनिस् में श्री मितन सूत्रधार, सहायक अनुभाग अधिकारी को दिनांक 16 मार्च 2020 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2017]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 16th March, 2020

S.O. 427.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Mitan Sutradhar, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Tunis to perform the Consular services with effect from 16 March, 2020.

[No.T-4330/01/2017]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 18 मार्च, 2020

का.आ. 428.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, बाली में सुश्री रुचिका बिष्ट, निजी सहायक को दिनांक 28 फरवरी 2020 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2017]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

New Delhi, the 18th March, 2020

S.O. 428.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Ms. Ruchika Bisht, Personal Assistant as Assistant Consular Officer in Consulate General of India, Bali to perform the Consular services with effect from 28 February, 2020.

[No. T-4330/01/2017]

VISHNU KUMAR SHARMA, Director (CPV)

नई दिल्ली, 6 मई, 2020

का.आ. 429.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, दुबई में सुश्री रीना चौहान, सहायक अनुभाग अधिकारी को दिनांक 06 मई 2020 से सहायक कौंसुलर अधिकारियों के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/03/2018]

विष्णु कुमार शर्मा, निदेशक (सी.पी.वी.)

New Delhi, the 6th May, 2020

S.O. 429.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Ms. Reena Chauhan, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Dubai to perform the Consular services with effect from 06 May, 2020.

[No.T-4330/03/2018]

VISHNU KUMAR SHARMA, Director (CPV)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 21 मई, 2020

का.आ. 430.—केंद्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम संख्या 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए त्रिपुरा राज्य सरकार, गृह विभाग की अधिसूचना सं. एफ 21 (2)-पीडी/2012/2743, दिनांक 06 अगस्त, 2019 के माध्यम से प्राप्त सहमति से भ्रष्टाचार निवारण अधिनियम, 1988 (1988 की अधिनियम संख्या 49) के तहत केन्द्रीय कर्मचारियों से संबन्धित किए गए अपराधों के अन्वेषण करने के लिए तथा ऐसे एक या अधिक अपराधों से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और षडयंत्र एवं / अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध(धों) का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त त्रिपुरा राज्य में करती है।

[फा. सं. 228/27/2012-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 21st May, 2020

S.O. 430.—In exercise of the powers conferred by sub-Section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Tripura, Home Department accorded vide No. F. 21(2)-PD/2012/2743 dated 06th August, 2019, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in whole State of Tripura for investigation of offences under the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) in respect of Central Government employees in the State and any attempt, abetment, and conspiracy in relation to or in connection with one or more of such offences and any other offence(s) committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/27/2012-AVD-II]

S. P. R. TRIPATHI, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय**(वाणिज्य विभाग)**

नई दिल्ली, 20 मई, 2020

का.आ. 431.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एस. जी. एस. इंडिया प्राइवेट लिमिटेड डोर संख्या 45-56-3/5/1, प्रथम एजेंसी लेन, नरसिम्हा नगर, एनएच-5, विशाखापट्टनम – 530024, जिसे एतदपश्चात् उक्त अभिकरण माना जाएगा, को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए खनिज और अयस्क – (समूह-1), अर्थात्, लौह अयस्क, मैंगनीज डाइऑक्साइड छोड़कर मैंगनीज अयस्क, फेरोमैंगनीज स्लैग सहित फेरोमैंगनीज तथा बाक्साइट और (समूह -2), अर्थात्, बेराइट, भारत सरकार के वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित, दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3975 तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूचियों में विनिर्दिष्ट क्रमशः उक्त खनिज और अयस्क का विशाखापट्टनम, गंगावरम, काकीनाडा एवं कृष्णपट्टनम पत्तन में निर्यात से पूर्व निरीक्षण करने के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I के निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) यह अभिकरण, इस अधिसूचना में निर्दिष्टानुसार इसके कार्यों के निष्पादन के लिए निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आवद्ध होंगी।

[फा. सं. के-16014/2/2020-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY**(Department of Commerce)**New Delhi, the 20th May, 2020

S. O. 431.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. S.G.S. India Private Limited, Door No. 45-56-3/5/1, 1st Lane, Narsimha Nagar NH-5, Visakhapatnam – 530024, (hereinafter referred to as the said agency), as an agency for a period of three years from the date of publication of this notification in the Official Gazette, for the inspection of Minerals and Ores (Group-I), namely, Iron Ore, Manganese Ore excluding manganese dioxide, Ferromanganese including ferromanganese slag and Bauxite and (Group – II), namely, Barytes specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O. 3975, dated the 20th December, 1965 and S.O. 3978 dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Visakhapatnam, Gangavaram, Kakinada and Krishnapatnam Port, subject to the following conditions, namely: -

- (i) The said agency, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965 and the Export of Minerals and Ores - Group II (Inspection) Rules, 1965; and
- (ii) The said agency, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/2/2020-Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

नई दिल्ली, 5 जून, 2020

का. आ. 432.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, हाउस नं. 1917, सुकलभतवादी एट एंड पोस्ट रेडी, तालुका वेंगुरला, ज़िला सिंधुदुर्ग, महाराष्ट्र- 416517 (जिसे एतदपश्चात् उक्त एजेंसी कहा जायेगा) को इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, भारत सरकार के वाणिज्य मंत्रालय की शासकीय राजपत्र में दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूचियों में विनिर्दिष्ट खनिज और अयस्क समूह-I, क्रम सं. दो पर निर्दिष्ट लौह अयस्क को निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रेडी और किरणपनी पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन विनिर्दिष्ट निरीक्षण के समय अपनाई जाने वाली निरीक्षण की पद्धति की जाँच के लिए निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) यह अभिकरण, इस अधिसूचना में यथा-विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/3/2020-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव (निर्यात निरीक्षण विभाग)

New Delhi, the 5th June, 2020

S.O. 432.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Mitra S.K. Private Limited, House No. 1917, Sukalbhawadi at and Post Redi, Taluka Vengurla, Sindhudurg District, Maharashtra 416517, (hereinafter referred to as the said Agency) as an agency for a period of three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Iron Ore specified at serial number 2 under the heading Minerals and Ores- Group – I, in the Schedule to the notification of the Government of India in the Ministry of Commerce published in the Official Gazette *vide* number S.O. 3975 dated the 20th December, 1965, prior to export of the said Minerals and Ores at Redi and Kiranpani Ports, subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965; and
- (ii) the said agency shall, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/3/2020- Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy. (Export Inspection Division)

नई दिल्ली, 5 जून, 2020

का.आ. 433.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एसजीएस इंडिया प्राइवेट लिमिटेड, बी.एन.टी. कनेक्शन बिल्डिंग, 28बी/1/(एसपी), 28बी/2 (एसपी), द्वितीय मेन रोड, अम्बतुर इंडस्ट्रीयल इस्टेट, अम्बतुर, चेन्नई – 600058, तमिलनाडु (जिसे एतदपश्चात् उक्त अभिकरण माना जाएगा) को इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संख्या का.आ. 3975 तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I अर्थात् लौह अयस्क और समूह-II अर्थात् बराइट, रेड आक्साइड और सिलमनाइट के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन चेन्नई, इन्नूर और कट्टुपल्ली पत्तन में उक्त खनिज एवं अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I के निर्यात (निरीक्षण) नियम, 1965 नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/5/2020-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

New Delhi, the 5th June, 2020

S.O. 433.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s SGS India Private Limited, B.N.T Connection Building, 28B/1(SP), 28B/2(SP), 2nd Main Road, Ambattur Industrial Estate, Ambattur, Chennai – 600058, Tamil Nadu, (hereinafter referred to as the said agency), as an agency for a period of three

years from the date of publication of this notification in the Official Gazette, for the inspection of Minerals and Ores (Group-I), namely, Iron Ore , and (Group – II), namely , Barytes , Red Oxide and Sillimanite in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O. 3975, dated the 20th December, 1965, and S.O. 3978 dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Chennai, Ennur and Kattupalli Port , subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965; and
- (ii) the said agency in performance of its function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. K-16014/5/2020-Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

नई दिल्ली, 5 जून, 2020

का.आ. 434.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स टीसीआरसी इन्सपैक्शन प्राइवेट लिमिटेड, प्लॉट नं. 337, सेक्टर - 1ए, ओस्लो सर्कल, टैगोर रोड, गांधीधाम- 370201, (जिसे एतदपश्चात् उक्त एजेंसी कहा जायेगा), को इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संख्या का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, बाक्साइट तथा लौह अयस्क को निर्यात से पूर्व निम्नलिखित शर्तों के अधीन पोरबंदर , कांडला, ओखा, एवं बेदी पत्तन में निरीक्षण करने के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I के निर्यात (निरीक्षण) नियम, 1965 नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) यह अभिकरण, इस अधिसूचना के अधीन अपने कार्यों के पालन में निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए ऐसे निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/7/2020-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

New Delhi, the 5th June, 2020

S.O. 434.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s TCRC Inspection Private Limited, Plot no. 337, Sector – 1A, Oslo Circle, Tagore Road, Gandhidham- 370201, (hereinafter referred to as the said agency) as an agency for a period of three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals and Ores –Group- I, namely, Bauxite and Iron Ore as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, vide number S.O. 3975 dated the 20th December, 1965, prior to export of the said Minerals and Ores at Porbandar, Kandla, Okha and Bedi Ports subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965; and
- (ii) the said agency shall, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/7/2020-Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

नई दिल्ली, 5 जून, 2020

का.आ. 435.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स थेराप्प्यूटिक्स केमिकल रिसर्च कारपोरेशन, द्वितीय एवं तृतीय तल, शिव इंडस्ट्रीयल इस्टेट, के.वी. बालमुकुंद मार्ग, बायकूला गुड्स डिपो के पास, चिंचपोकली (पू.) मुंबई - 400012 महाराष्ट्र (जिसे एतदपश्चात् उक्त अभिकरण माना जाएगा) को इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संख्या का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I अर्थात् बाक्सआईट और लौह अयस्क के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन धरमतर पत्तन, जयगढ़ पत्तन और रेडी पत्तन में उक्त खनिज एवं अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I के निर्यात (निरीक्षण) नियम, 1965 नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/6/2020-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

New Delhi, the 5th June, 2020

S.O. 435.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s Therapeutics Chemical Research Corporation, 2nd and 3rd Floor, Shiv Industrial Estate, K.V. Balmukund Marg, Near Byculla Goods Depot, Chinchpokli (E), Mumbai 400012 Maharashtra, (hereinafter referred to as the said agency) as an agency for a period of three years from the date of publication of this notification in the Official Gazette, for the inspection of Minerals and Ores –Group- I, namely, Bauxite and Iron Ore as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, vide number S.O. 3975 dated the 20th December, 1965, prior to export of the said Minerals and Ores at Dharamtar Port, Jaigarh Port and Redi Port subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965; and
- (ii) the said agency shall, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/6/2020-Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

नई दिल्ली, 5 जून, 2020

का.आ. 436.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स इन्स्पेक्टोरेट ग्रिफिथ इंडिया प्राइवेट लिमिटेड, प्लॉट सं. 73, सेक्टर - II जीआईडीसी, गांधीधाम - कच्छ, गुजरात - 370201 (जिसे एतदपश्चात् उक्त अभिकरण माना जाएगा) को इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संख्या का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I अर्थात् बाक्साइट के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन मुद्रा, कांडला, पोरबंदर, जामनगर और ओखा पत्तनों में उक्त खनिज एवं अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन विनिर्दिष्ट निरीक्षण के समय अपनाई जाने वाली निरीक्षण की पद्धति की जाँच के लिए निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/4/2020-निर्यात निरीक्षण]

दिवाकर नाथ मिसरा, संयुक्त सचिव

New Delhi, the 5th June, 2020

S.O. 436.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s Inspectorate Griffith India Private Limited, Plot No. 73, Sector- 11, GIDC, Gandhidham-Kutch, Gujarat – 370201 (hereinafter referred to as said agency), as an agency for a period of three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group-I, namely, Bauxite as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the official Gazette *vide* number S.O. 3975, dated the 20th December, 1965, prior to export of the said Minerals and Ores at Mundra, Kandla, Porbandar, Jamnagar and Okha Ports, subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965; and
- (ii) the said agency, in performance of their function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. K-16014/4/2020-Export Inspection]

DIWAKAR NATH MISRA, Jt. Secy.

नागर विमानन मंत्रालय

(एएआई अनुभाग)

नई दिल्ली, 21 मई, 2020

का.आ. 437.—मंत्रिमंडल की नियुक्ति समिति के दिनांक 26 अप्रैल, 2020 के आदेश संख्या 36/01/2020-ईओ (एसएम-1) के अनुसरण में भारतीय विमानपत्तन प्राधिकरण के अध्यक्ष श्री अरविन्द सिंह, भा.प्र.से. (एमएच:1988) को भारतीय विमानपत्तन प्राधिकरण में अध्यक्ष के पद का अस्थायी उन्नयन करते हुए, उनके वैयक्तिक प्रभाव के तौर पर, भारत सरकार में विशेष सचिव स्तर पर वेतन मैट्रिक्स (संशोधित) के स्तर 17 में सचिव के पद तथा वेतन पर दिनांक 26 अप्रैल, 2020 की अपराह्न से दिनांक 31 मई, 2023 को उनकी अधिवार्षिता की तिथि तक अथवा आगामी आदेशों तक, इनमें से जो भी पहले हों, यथास्थान (in-situ) पदोन्नति प्रदान की जाती है।

[फा. सं. एवी-24011/5/2018-एएआई-एमओसीए]

नरेन्द्र सिंह, अवर सचिव

MINISTRY OF CIVIL AVIATION

(AAI SECTION)

New Delhi, the 21st May, 2020

S.O. 437.—In pursuance of Appointments Committee of the Cabinet Order No. 36/01/2020-EO(SM-I) dated 26th April, 2020, Shri Arvind Singh, IAS (MH:1988), Chairman, Airports Authority of India is granted in-situ upgradation to the level of Special Secretary in the rank and pay of Secretary to the Government of India, as a measure personal to him, by temporarily upgrading the post of Chairman, Airports Authority of India, with effect from forenoon of 26th April, 2020 in the Level 17 of the Pay Matrix (revised) till the date of his superannuation i.e. 31st May, 2023 or until further orders, whichever is the earliest.

[F. No. AV-24011/5/2018-AAI-MOCA]

NARENDRA SINGH, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 27 मई, 2020

का. आ. 438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 08/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 प्राप्त हुआ था।

[सं. एल-12012/133/2008-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENTNew Delhi, the 27th May, 2020

S.O. 438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2009) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27.05.2020.

[No. L-12012/133/2008-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 14TH MAY, 2020**PRESENT :** JUSTICE SMT. RATNAKALA, Presiding Officer**CR 08/2009****I Party**

Sh. M.I. Ismail Baig,
S/o M. Ebrahim Baig,
C/o Smt. Saleema Begum,
No. 9, 8th A Cross, kempiah Block,
Munireddy Playa, J.C. Nagar Post,
BANGALORE – 560006.

II Party

The Deputy General Manager,
State Bank of India, Region – III,
Bangalore Zone, B.K.G. Complex,
2nd Floor, Avenue Road,
BANGALORE – 560009.

Appearance :

Advocate for I Party : Mr. D. Leelakrishnan

Advocate for II Party : Mr. N. Venkatesh

AWARD

The Central Government vide Order No. L-12012/133/2008-IR(B-I) dated 06.02.2009 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of State Bank of Mysore, Region –III, Bangalore Zone in removing Sh. M. I. Ismail Baig, Ex-Cashier cum Godown Keeper, Malleswaram Branch of SBM, Bangalore (KN) from services with superannuation benefits without disqualification from future employment w.e.f. 30.09.2006 and recovery of Rs. 1,36,289.00 along with simple interest @ 12% per annum amounting to RS. 1,47,192.00 from 15.06.1998 to 14.06.2007 out of the terminal benefits payable are legal and justified? If not, what relief the workman concerned is entitled to?”

1. The 1st Party workman is the former employee of the erstwhile State Bank of Mysore presently State Bank of India, who is removed from service with superannuation benefits with a further Order to recover the financial loss caused to the Bank out of his terminal benefits. Disciplinary action was initiated on him by issuing Charge Sheet and by holding Departmental Enquiry into charges levelled in the Charge Sheet. On

conclusion of Enquiry, the Enquiry Officer submitted his Report holding that out of the seven charges levelled against him three charges are proved. Acting on the Enquiry Report, the Disciplinary Authority imposed the punishment of dismissal. The Appellate Authority vide order dated 30.06.2007 reduced the punishment as below

- “1. *The CSE be removed from service with superannuation benefits i.e., Pension and or Provident Fund and Gratuity as would be due otherwise under the Rules and Regulation prevailing at the relevant time and without disqualification from future employment in terms of 6(b) of Memorandum of Settlements on Disciplinary Action dated 10.04.2002*
- 2(a) *Further, the CSE had fraudulently utilised the amount of Rs. 1,36,289/- for his benefit and has occasioned a financial loss to the Bank. Hence, I am inclined to recover this amount with interest out of terminal benefits of the CSE.*
- 2(b) *The finical loss of Rs. 1,36,289/- occasioned by the CSE be recovered with simple interest @ 12% per annum amounting to Rs. 1,47,192/- (from 15.06.1998 to 14.06.2007) from out of the terminal benefits payable if any, for the reasons mentioned above.*
3. *The other component of Disciplinary Authority's Orders stands confirmed.*

.....”

2. The 1st Party in his Claim Statement claimed that, criminal proceedings on identical charges was pending; it was not permissible for the 1st Party to disclose his defence even though criminal proceedings were pending, till the Bank proceeded with the enquiry that has prejudiced him. Before concurring with the Enquiry Officer's Report, the Disciplinary Authority did not call for his explanation to the Enquiry Report but they issued show cause notice in respect of the proposed penalty. He challenged the said Order before the Hon'ble High Court in WP No. 3616/2004 (S); interim stay was granted in the said case, subsequently disposed off on 09.06.2006 expunging the observance in the show cause notice. He was given opportunity to file statement of objection to the show cause notice and the Enquiry Report. The Disciplinary Authority was directed to decide the case on merits by considering objection to the show cause notice along with the report of the Enquiry Officer and the material submitted along with the said Report. Even before he could file his Objection Statement to the Enquiry Report and show cause notice, the 2nd Party issued a memo dated 28.06.2006; he challenged the said memo in W.P No. 9189/2006(S); interim stay was granted in the said case. The 2nd Party on appearance filed a memo stating that they have withdrawn the memo dated 28.06.2006.

He submitted his explanation to the show cause notice dated 27.12.2003. Again the Bank issued another show cause notice dated 23.08.2006 calling for his reply as to why punishment as proposed should not be inflicted; he submitted his reply. He challenged the Order of the Disciplinary Authority and the Appellate Authority in WP No. 17099/2007 (S), the WPs was disposed off on 06.11.2007 giving him liberty to approach the Labour Court by leaving open all the contentions. According to him, the procedure followed by the Disciplinary Authority is highly illegal, irregular, arbitrary, capricious, malafide and discriminatory. The finding of the Enquiry Officer is not supported with reason wherefore, false, baseless and perverse. The Order of the Appellate Authority is without application of mind and without going through the details under Section 10 of the EPF&MP Act, 1952. Provident Fund to the credit of any employee is not liable for any attachment. Likewise, under Sec 13 of the Payment of Gratuity Act, 1972 gratuity amount of an employee is not liable for attachment. The punishment Oder is highly illegal, arbitrary and excessive to the gravity of misconduct alleged against him but not conclusive established in the enquiry.

3. The 2nd Party in their Counter Statement while denying the allegations levelled against the enquiry finding, order of procedure of the Disciplinary Authority and order of the Appellate Authority justified the action taken against the workman.

4. The fairness of Domestic Enquiry held against the workman is endorsed vide order dated 24.07.2019.

5. Written argument is submitted by both Parties.

6. The allegations against the workman in the Charge Sheet dated 20.07.2000 is, while working as Cashier cum Godown Keeper at Malleswaram Branch,

1. He received Rs. 16,000/- from Smt. Shameem Bi on 15.06.1998 for the credit of A/c No. 15587; issued counter foil with cash paid seal and made an entry in the pass book and did not credit the amount.
2. On 17.12.1998, he withdrew Rs 33,000/- from the SB A/c No. 18436 of Sh. Mohammed Shafiulla against forged signature of the customer.

3. The credit entries made in the pass book of Smt. Shameem Bi are not accounted in the Branch books and debit entries in the Branch books are not reflected in the pass book.
4. He transferred funds between the accounts of customers and staff accounts and also to his personal account. He indulged in parallel banking. The transfer was effected from the SB A/c No. 18346 of Sh. Mohammed Shafiulla.
5. In the P.P.F A/c No. 408 of Sh. Sailesh Joshi
 - (a) He misappropriated Rs. 1,20,289/- on 17.04.1998 from the closure proceeds of PPF Account.
 - (b) He issued one more office cheque bearing No. 312521 on 21.04.1998 to the same party without any corresponding credit from PPF Account to cover up earlier act of misappropriation of the office cheque bearing No. 312172.
 - (c) He arranged for transfer of funds from the accounts of customers / staffs and relatives to honour the office cheque issued earlier without funds. He misrepresented the facts to supervising Official in order to get office cheque duly signed without supporting credit voucher.
6. In the PPF account of customers, he misappropriated the interest / broken period interest component paid on the closure of PPF account's against forged signature on the reverse of the Office cheque (without bringing to the knowledge of the customers about the interest payment). He made payment in respect of eight office cheques bearing forged signature of the beneficiary of the office cheque. Despite being aware of the geniuses of the account holder and the person who received the payment.
7. He misappropriated the interest portion paid on closure of PPF Accounts.
7. The Charge sheet was subsequently amended with regard to the second charge; it was amended Charge No. 4 was deleted, Charge No. 2, 3 and 6 were corrected; charge No. 2 the year was changed as 17.12.1997 instead of 17.12.1998; charge No. 3 instead of credit entries it was read as debit entries made after 01.07.1997 for Rs. 30,000/-, Rs. 15,000/- and Rs. 12,000/- entered by him in the pass book.
8. During the enquiry, on behalf of the 2nd Party 93 documents were marked and three witnesses were examined. The CSE opted not to adduce defence evidence and produced one document as Bex -1; he submitted his summing up documents. The Enquiry Officer returned his finding that, charges 1, 3 and 5 are proved out of the six charges on which he was tried.
9. The 2nd Party issued show cause notice calling upon him to show cause as to why the proposed punishment should not be imposed on him. The 1st Party approached the Hon'ble High Court contending that Disciplinary Authority has already made up his mind to the conclusion that the finding of misconduct recorded by the enquiry is correct and to impose the penalty proposed in the said show cause notice. The opportunity given to him is mere pretence; therefore, is in violation of the principles of natural justice. His Writ Petition was allowed; the observations made in the show cause notice was expunged; he was given opportunity to file his objection to the show cause notice and also to the Enquiry Report.

The Disciplinary Authority was directed to consider the Enquiry Report and the materials submitted along with the report as well as explanation offered by the 1st party and then decide the case on its merits etc. Accordingly, on submission of his explanation to the Enquiry Report, the 1st Party filed his statement of objections, thereby pleading not to accept the findings recorded by the Enquiry Officer. Without appreciating his various contentions a show cause notice dated 27.12.2003 was issued, proposing the punishment in the nature of dismissal of service without notice in respect of each of the established charge No. 1, 3, 5, 6 and 7. It was also proposed to treat the period of suspension as not on duty and also to recover from him quantified financial loss of Rs. 1,36,289/-. He was given personal hearing. The 1st Party submitted his reply to the said show cause notice. Vide considered order dated 30.09.2006 the proposed punishment was confirmed with liberty of preferring appeal. In the Appeal the Punishment Order was modified in the following terms,

- “1. The CSE be removed from service with superannuation benefits i.e., Pension and or Provident Fund and Gratuity as would be due otherwise under the Rules and Regulation prevailing at the relevant time and without disqualification from future employment in terms of 6(b) of Memorandum of Settlements on Disciplinary Action dated 10.04.2002
- 2(a) Further, the CSE had fraudulently utilised the amount of Rs. 1,36,289/- for his benefit and has occasioned a financial loss to the Bank. Hence, I am inclined to recover this amount with interest out of terminal benefits of the CSE.

2(b) *The finical loss of Rs. 1,36,289/- occasioned by the CSE be recovered with simple interest @ 12% per annum amounting to Rs. 1,47,192/- (from 15.06.1998 to 14.06.2007) from out of the terminal benefits payable if any, for the reasons mentioned above.*

3. *The other component of Disciplinary Authority's Orders stands confirmed.*

.....”

Now, he is acquitted of the charges punishable under Section 409 and 420 of IPC by the Special Court. A judgement is marked as Ex W-18.

10. During the Domestic Enquiry, the first witness for the prosecution was the computer operator who worked between 1995 - 1998 at Malleswaram Branch and then promoted as an Officer. Through him the Management documents were marked as Bex-1 to Bex-48. The 1st Party did not cross examine the witness. The submission of his defence representative was, the 1st Party is charge sheeted by the Police in the criminal case in respect of Charge No. 1 and 2 and Domestic Enquiry shall not be proceeded on the similar charges.

The second witness was the Branch Manager of the Malleswaram Branch between 19.01.2001 to 30.11.2002 who has sent papers to the handwriting expert and received the report on 19.10.2002. Through her the Handwriting Expert's Report was marked Bex-49. The Defence Representative objected for marking of the Handwriting Expert's Report but did not cross examine the witness.

The third witness was the Chief Manager of the Malleswaram Branch during July 1997 to June 1999. Through him documents Bex-50 to Bex-69 were marked under the protest from Defence Representative. Two attendance Registers for the relevant period were marked as Bex RR-I and Bex RR-II. The cashier's payment, day book for the period 02.11.1995 to 19.11.1995 and 08.02.1996 and 09.05.1996 were marked as Ex Bex RR-III and Bex RR-IV. Thereafter, BW-1 was recalled and further examined in chief and his further clarification was taken on the documents already marked. The witness was not cross examined; BW-3 was further examined in chief and the documents which already marked incorrectly were corrected and numbered as Bex-70 to Bex 72. BW-1 and BW-3 were subsequently cross examined at length.

11. We will deal with the charges 1, 3 and 5 on the basis of which he is found guilty and imposed punishment; he was assisted by the Defence Representative :-

Charge No. 1 – the remittance of Rs. 16,000/- received by CSE from Smt. Shameem Bi on 15.06.1998 for credit of SB A/c No. 15587 has not been accounted by the CSE although CSE has issued counter foil by affixing “Cash Paid Seal” and made an entry in the pass book. The supporting documents were Bex-1 the letter of the Bank addressed to AGM-III along with the complaint of Smt. Shameem Bi and the supporting documents. Bex-2 and Bex-3 are the counter foil received by the CSE under the Branch cash paid seal. Bex -17 is the Handwriting Expert's opinion that the handwriting in the counter foil in the challan (Bex-3) is that of CSE and also the entry of Rs. 16,000/- in the pass book is that of the 1st Party. Bex-4 is the statement of account which does not depict deposit of Rs. 16,000/- on that day in the account of Shameem B. Appreciating the documentary evidence, the Charge No. 1 was held proved. Through, in his summing up brief the 1st Party raised several contentions questioning the genuineness of complaint, the Enquiry Officer brushed aside his contention.

The Charge No. 3 is – the debit entries made after 01.07.1997 for Rs. 30,000/-, Rs. 15,000/- and Rs. 12,000/- entered by CSE in the pass book of Shameem Bi are not accounted in the SB Account. The supporting documents are the SB A/c pass book of A/c No. 15587, statement of account, two transfer debit vouchers and the withdrawal form for Rs. 13,000/- dated 06.03.1998 and the Handwriting Expert's Report. As against the alleged three debit entries in the pass book corresponding debit entries were not found in the SB A/c statements, the transfer debit vouchers and the withdrawal slip (Bex-7 and Bex-9) were in the handwriting of the 1st Party. The debit entries were in excess of Rs. 3,500/- over the debit entries made in the pass book. All the entries in the Bank's book, SB pass book and the debit voucher were in the handwriting of the CSE which was confirmed by the Handwriting Expert (Bex-70). The Enquiry Officer inferred that in the context of deliberate omission to record the debit entries aggregating to Rs. 60,500/- in the pass book leads to suspicion as to who received the difference of Rs. 3,500/-. The 1st Party had not released the vouchers for the said entry in the pass book and in the defence statement there was no discussion on this aspect, that lead the Enquiry Officer to record charge No. 3 as proved.

Charge No. 5 – (a) misappropriation of amount of Rs. 1,20,289/- on 17.04.1998 from the account of closure proceeds of PPF account No. 408 of Sh. Sailesh Doshi.

- (b) Issuance of one more office cheque bearing No. 312521 on 21.04.1998 to the same party without any corresponding credit from the PPF account to cover up the earlier act of misappropriation of office cheque of 312172.
- (c) Arrangement of transfer of funds from the accounts of customers / staff and his relatives to honour the office cheque issued earlier without funds on his misleading words; he misrepresented the facts to the supervisory official in order to get the office cheque duly signed with supporting the credit voucher. The supporting documents to the above allegation were,

(Bex-12) the account challan dated 17.04.1998 for Rs. 1,20,289/- in favour of the account holder; (Bex 13) office account cheque dated 17.04.1998 for Rs. 1,20,289/- favouring the account holder and also his authorisation to pay amount to Sh. H.S. Venkatesh; (BEX 14) office account challan for Rs. 1,20,169/- + Rs. 120/- (exchange) amounting to Rs. 1,20,289/- favouring, (Bex-15, Bex-16 and Bex-17) transfer debit dated 22.04.1998 in respect of SB A/c No. 16187 - Syeda Mohamadi Sultana for Rs. 35,000/-, transfer debit dated 22.04.1998 for Rs. 25,289/- of the current account No. 1211 - S.P. Mohandas, transfer debit dated 22.04.1998 for Rs. 60,000/- of current account No. 1353 of M/s Geo services; (BEX 18) office account cheque dated 21.04.1998 for Rs. 1,20,169/- favouring Sailesh P. Doshi; (BEX 60) letter of Sailesh dated 11.06.1998 addressed to the Chief Manager acknowledging receipt of 1,20,169/- to Sh. H.S. Venkatesh and (Bex-63) letter of Sh. H.S. Venkatesh dated 11.06.1998 regarding non-receipt of cash amounting to 1,20,289/- as the same was already received by pay order on 21.04.1998; (Bex-64) letter dated 10.06.1998 by Sh. S.P. Mohandas regarding transactions in the Office account on 22.04.1998, (Bex 64(A) to (C)) copy of cheque No. 173930 dated 27.04.1998 for Rs. 25,289/- issued to him by Ismail Baig, his statement of account from 01.04.1998 to 30.05.1998, letter of Sh. M. I. Ismail addressed to him thanking him for lending Rs. 25,289/-; (Bex-67) the depositions given by the Clerk, Head Cashier and the 1st Party before the Chief Manager on 10.06.1998; (Bex-68) and the letters Bex-60 and Bex-63 made it evident that, the PPF amount was paid on 17.04.1998 that lead the Enquiry Officer to suspect that there was temporary misappropriation of amount between 17.04.1998 and 22.04.1998, since, the second office cheque for the same amount after debiting three other accounts of the customers was issued. While recording his finding that the charge is conclusively proved, the Enquiry Officer has considered all the defence taken by the 1st Party.

12. The 1st Party although contradicted the very genuineness of the complaint lodged by Smt. Shameem Bi, still urged "there is no proof of claim by the complainant or settlement of dues to the complainant. It was also his case that, no loss is caused to the Sailesh Joshi holder of PPF Ac No. 408 otherwise he would have claimed the loss. Moreover, the witnesses who gave the statement before the Chief Manager as per Bex-64(A) to (C) were not examined during the enquiry and thus not made available for cross examination. The 'Manager computers' had stated that after observing formalities in normal course of business, he has passed IDIT debit voucher and office account credit challan of Rs.1,20,289/-; Sh. R. Sathyanarayana had stated that, the 1st Party arranged for crediting the entire amount of office cheque for Rs. 1,20,169/- by debit to various accounts and managed for full credit of office cheque. None of the customers have complained about debit of their respective accounts. Sh. S.P. Mohandas from whose account 1st Party transferred the amount to the office account is not examined."

The Enquiry Officer though has not drawn a detailed appreciation of evidence, he has founded his finding on the undisputed official documents that were marked as exhibits. It was never disputed that on the alleged dates of transaction, the 1st Party was on duty and has posted the transactions in respect of transactions in question. He has made entries in the disputed documents, when the Handwriting Expert's Report was produced, either he did not ask for calling the Handwriting Expert for cross examination nor adduced rebuttal evidence disputing the documents.

When the Enquiry Officer's finding is founded on the tangible evidence placed on record, I find no perversity in the enquiry finding or it cannot be branded as an arbitrary finding. The Disciplinary Authority while dismissing him from service in line with the finding of the Enquiry Officer on charge No. 1, 3 and 5 has ordered for recovery of Rs. 1,36,289/- towards the financial loss caused to the Bank. As per Charge No. 5 (a), he has misappropriated Rs. 1,20,289/- from the closure proceeds of his PPF account. As such, it is established during the enquiry is, the account holder Sailesh Joshi has received his PF amount. Even if, it is to be stated that the 1st Party committed temporary misappropriation causing loss to the PPF account holder, there is no estimation to the loss caused to the customer.

In the Criminal Case the document was produced as Pe-8 establishing that, Smt. Shameem Bi received the amount to her SB Account and she withdrew the complaint. Whether said Smt. Shameem Bi received her amount from the Bank as a settlement or from the complainant, there is no such evidence on record. When there is no specific evidence that the Bank has suffered the financial loss, the Disciplinary Authority or the Appellate Authority were not justified in ordering recovery of Rs. 1,36,289/- (the Appellate Authority has imposed simple

interest at 12% on the said amount) from the terminal benefits of the 1st Party workman. Though the 1st Party has made attempt that the alleged acts would not amount to gross misconduct in terms of Clause 19.5(J) of the Bipartite Settlement, the evidence placed before the Enquiry Officer was sufficient to prove that intentionally indulged in transfer of funds from the accounts of the customers and the staff to the office account (though subsequently he might of made good that amount to the respective account holders) and did not account the amount of the customer intentionally. He entered different amounts in Smt. Shameem Bi's pass book, challan and the statement of account. Thus, the Bank has lost confidence in him.

13. The 2nd Party is a Nationalised Bank, a public Institution handling the public money. The 2nd Party though could not establish financial implication from the misconduct alleged and proved against the 1st Party, there is sufficient material to infer that for a temporary period he has embezzled the Bank money for his personal use. Thus, indulged in making false entries in the Bank's records, the punishment imposed by the Appellate Authority thereby removing him with superannuation benefits cannot be said to be excessive. His acquittal from the criminal case has no bearing on the result of the Domestic Enquiry; that is the settled position of law as on today. Delay in issue of Charge Sheet, is not a reason which vitiates the entire Departmental enquiry unless he is able to demonstrate the prejudice caused to him due to such delay.

However, this Tribunal cannot endorse the Order of recovery of Rs. 1,36,289/- with interest at 12%, since no tangible evidence was placed before the Enquiry Officer that the Bank has suffered that much of loss due to the acts of omission and commission by the 1st Party. The Award needs to be interfered and modified to that extent.

AWARD

The reference is accepted in part.

The Order of the Appellate Authority / Deputy General Manager dated 30.06.2007 at Para 2 (a) and (b), whereby recovery of Rs. 1,36,289/- with simple interest at 12% amounting to Rs. 1,47,192/- (from 15.06.1998 to 14.06.2007) from out of the terminal benefits of the 1st Party workman is set aside.

The 2nd Party is directed to release entire superannuation benefits of the 1st Party workman forthwith i.e., Pension and or Provident Fund and Gratuity as per the Rules and Regulation prevailing at the relevant time.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 14th May, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 45/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 को प्राप्त हुआ था।

[सं. एल-12012/46/2006-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27.05.2020.

[No. L-12012/46/2006-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 16TH MARCH 2020**PRESENT** : JUSTICE SMT.RATNAKALA, Presiding Officer**CR 45/2006****I Party**

Sh. G.S. Kini,
Vice President,
The Mysore Division General Association
No. 7,
Tejaswini Nagar, SOS Post,
Hulimavu,
Bangalore - 560 076.

II Party

The General Manager (P)
State Bank of India,
Zonal Office, Region -IV,
65, St. Marks Road,
Bangalore - 560 001.

Appearance :

Advocate for I Party : Mr. R Krishna Murthy

Advocate for II Party : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No. L-12012/46/2006-IR(B-I) dated 27.10.2006 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of State Bank of India in imposing punishment of penalty of stoppage of five increments on Sh. B.R. Jagadish, Assistant / Clerk of Seegur Branch w.e.f. October, 2005 is justified or not? If not, what relief the workman is entitled to and from which date?”

1. The 1st Party workman is the employee of the 2nd Party who is imposed punishment of stoppage of five increments since the charges alleged against him came to be proved during the Domestic Enquiry. The fairness of the Domestic Enquiry is upheld by this Tribunal vide order dated 09.10.2013. In the written argument filed on 23.08.2019, the 1st party has contended that because of the punishment Order imposed on him, he suffered financial loss to a tune of Rs. 54,40,000/- and also, he was denied promotions without any reasons though there was no order to withhold his promotion. A direction is required to be given to the 2nd Party to give promotion to him on par with his immediate Junior belonging to SC category (1st Party workman also belongs to SC category). There was no allegation against him regarding financial misappropriation. The Punishment order is highly disproportionate and excessive. He seeks to

- i) *Modify the Punishment, “postponement of five increments with cumulative effect” to a reasonably low level which reasonably commensurates with the gravity of charges and order for payment of the differential amount to the D.O.*
- ii) *Direct the 2nd Party Management to give promotions to the 1st Party workman time to time on par with his immediate Junior in SC category with retrospective effect from the dates on which such Junior was promoted to higher grades with all consequential, financial and service benefits.*

2. In view of the above, the 1st Party has cleared his stand that this Dispute is now confined about the proportionality of the punishment imposed, but not on the eventual Disciplinary Action taken on the basis of the Enquiry Report.

3. The allegation against him as per the Charge Sheet dated 15.09.2001 was to the effect that,

Firstly,

- a) On 02.12.2000, he shouted against the Deputy Manager, Officiating as Branch Manager. When instructed to attend the work related to LBR returns; he used derogatory and insulting language and refused to attend to the allotted work, in the presence of staff members and public.

- b) On 04.12.2000, he threw the letter served on him by the above officiating Branch Manager in presence of the Branch Manager and shouted at him using derogatory and insulting language in presence of staff members and public.
 - c) He threatened his colleagues of filing Police complaint by taking caste as a shelter.
- Secondly, he was arrogant and rude to the customers.

Thirdly,

- a) On 13.03.2001, he gave a press statement to Vijaya Karnataka, Kannada daily making false allegations against his colleagues.
- b) He brought outside influence against implementing administrative decisions like investigation and transfer.

4. After a full-fledged Enquiry, the Enquiry Officer recorded that all the charges listed in the Charge Sheet – are proved.

5. During his personal hearing with the Disciplinary Authority, the 1st Party workman vented out all his grievance against lack of opportunity, communal bias against him etc. But the Disciplinary Authority proceeded to impose the punishment thus,

“stoppage of 5 increments” vide Para (6) (f) of Bipartite Settlement dated 10.04.2002 read in conjunction with Para 521 of Sastry Award and 18.28 of Desai Award.....”

6. It is the settled legal position that, when the Charges are held to be proved in a duly held Departmental Enquiry it is the prerogative of the Employer to impose appropriate punishment. The Tribunal / Judicial Forum have to contain from inferring with the quantum of punishment. Still I am counting the circumstances from the other angle for the following reasons, the incident is of 2000; stoppage of five increment with cumulative effect has its financial implication throughout his service thereby telling upon the dire necessities and welfare of his dependent family. The misconduct alleged is not of moral turpitude or causing financial loss to the 2nd Party Bank. During the pendency of Domestic Enquiry the 1st Party workman is said to have been transferred from Seegur Branch to APMC Yard, Davanagere Branch.

7. Considering the above facts in the opinion of this Tribunal, the punishment of stoppage of five increments with cumulative effect was of higher side. Then comes the question of interference in exercise of the jurisdiction under Section 11(A) of the Act. The similar question came for consideration before the Hon'ble High Court of Delhi in the matter of Union Bank of India vs Bharat Bhushan on 23 April, 2015 held that :

“18. Having said that, a Labour Court or Industrial Tribunal is still not deprived of its power to deal with the kind of cases where punishment other than discharge or dismissal is awarded to the workman. Item No.1 of II Schedule and Item No.8 of the III Schedule appended to the Industrial Dispute Act comprehend within themselves all matters in which the orders are passed by the employer under the standing orders and the rules of discipline. This would obviously include imposition of punishment other than dismissal or removal from service and the Labour Court / Industrial Tribunal has got full jurisdiction to examine the merits and de-merits of the order of punishment passed by the employer under the standing orders and rules of discipline where the penalty is other than dismissal or discharge from service. Although, such power does not emanate from Section 11-A of the Industrial Dispute Act, such jurisdiction is exercised in conformity with the II and III Schedule of the Industrial Dispute Act.

19. As to what is the extent of interference in cases of other punishment, the Apex Court does not opine so in Indian Iron and Steel Company's case (supra). However, the Labour Court / Industrial Tribunal can interfere to the extent permitted by judicial pronouncements and facts of individual case. Some of the considerations can be; (i) want of good faith; (ii) victimization or unfair labour practice; (iii) basic error or violation of principles of natural justice; (iv) finding completely baseless or perverse; (v) colourable exercise of power or want of bonafide; (vi) bonafide. Punishment shocking disproportionate in the facts of the present case; and (vii) conduct of workman/ workmen, present or past.”

8. The present case falls within the category where the punishment is shockingly disproportionate to the gravity of the charges proved. Hence, required to be modified by reducing the punishment of stoppage of five increments to stoppage of three increments with cumulative effect. So far as the question of promotion denied to him is concerned that does not fall within the ambit of the Schedule to the order of reference.

AWARD**The reference is accepted in part.**

The action of the Management of State Bank of India / 2nd Party in imposing the punishment of penalty of stoppage of five increments on 1st party workman Sh. B R Jagadish, Assistant / clerk of Seegur Branch w.e.f. October, 2005 is shockingly disproportionate and excessive viz a viz the charges proved against him during the enquiry hence, not justified.

The punishment order shall be reduced to stoppage of three increments w.e.f. October 2005 with cumulative effect instead of stoppage of five increments with cumulative effect as ordered by the Disciplinary Authority / 2nd Party.

The 2nd Party is directed to release the consequential monetary benefits to 1st Party workman.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 16th March, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 20/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 को प्राप्त हुआ था।

[सं. एल-12011/17/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27.05.2020.

[No. L-12011/17/2012-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**

DATED : 28TH APRIL, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 20/2012**I Party**

The General Secretary,
SBI Ambedkar trade Union,
No. 31, Apurva Ashreya Eng.
School road, S.P. Naidu Layout,
Opp. R.M. Nagar Police Station,
Bangalore – 560016.

Appearance :

Advocate for II Party : Mr. Ramesh Upadhyaya

II Party

The Chief General Manager,
State Bank of India,
Local Head Office,
St. Marks Road,
Bangalore - 560001.

AWARD

The Central Government vide Order No. L-12011/17/2012-IR(B-I) dated 18.07.2012 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of State Bank of India, LHO, Bangalore in imposing the penalty, of bringing down salary to one lower stage in the scale of pay for one year, upon to Sh. K. Pandian, Senior Assistant is legal and justified? To what relief the workman is entitled?”

1. The claim of the 1st Party workman is, that, he joined the 2nd Party Bank as Clerk cum Typist on 19.08.1982 in Chennai Circle of the Bank and was promoted as Senior Assistant in the year 1995 and presently working at Mahadevapura Branch. He is a Trade Union Activist and had made complaints against the AGM of the local Head Office. The AGM coerced him to withdraw the complaint; since he was not agreeable to withdraw the complaint, the AGM influenced the Disciplinary Authority to issue Charge Sheet to him; he was suspended only for filing complaints against the AGM. He was issued Charge Sheet but without documents; during the enquiry proceeding, his request for the documents was rejected; his request to engage the Advocate was also rejected; two Enquiry Officers were changed; the enquiry was not properly conducted; enquiry is conducted without adhering to the principles of natural justice; the charges were not specific but vague; the third Enquiry Officer was biased; the enquiry findings are perverse; the document marked as PEX-1 was not genuine; the Enquiry Officer permitted leading questions to the Management witness; he was not afforded reasonable opportunity to rebut the evidence; the charges are not proved during the enquiry; the Appellate Authority without considering his case dismissed the Appeal.

2. No counter is filed. The case is clubbed with ID No. 04/2012 which is a Petition under Sec 2-A of ‘the Act’ filed by the 1st Party workman.

Though, notice was issued the 1st Party did not turn up to submit his arguments. Sh. RU for the 2nd Party had submitted that, the Dispute since was raised challenging the minor punishment is not maintainable. A Memo filed by the 2nd Party dated 31.07.2013 is on record; said memo is filed even before the Claim Statement was filed. It is stated in the said memo that the 1st Party has been taken back to duty. Hence, the Dispute is not maintainable. Since, the proceedings in ID No. 04/2012 is clubbed at the instance of the 1st Party, it is required to count upon the Counter Statement filed by the Management in ID No. 04/2012 and the evidence recorded in the said case.

3. In ID No. 04/2012, the 2nd Party justified the Punishment Order imposed on the workman and denied all the allegations made by the workman against the Enquiry Officer, enquiry proceedings and Enquiry Report.

4. On the rival pleadings, Preliminary Issue was framed as follows

“Whether the Domestic Enquiry conducted by the 2nd Party against the 1st Party is fair and proper?”

5. The 2nd Party examined the Enquiry Officer and produced Enquiry Records as Ex R-1 to Ex R-17. The 1st Party adduced rebuttal evidence and produced 15 documents.

6. The 1st Party has submitted his written argument.

7. The Enquiry Officer held that the charges are partly proved. The Disciplinary Authority vide his Order dated 21.04.2011 recorded his satisfaction that the principles of natural justice is complied and awarded punishment.

“Be brought down to lower stage in the scale of pay by one stage for one year” under Rule 6(e) of Memorandum of Settlement dated 10.04.2002.

The period of suspension will be treated as such upto 30.04.2010 and thereafter it will treated as on duty”.

8. To summarise the allegation against the 1st Party in the Charge Sheet dated 26.11.2011 was to the effect,

On 17.04.2007, at 4:00 pm he entered Branch Manager’s Cabin and started arguing for not allowing him to leave the Branch. He made thumping on the Branch Manager’s table and shouted against him alleging that he is differentiating him while favouring other staff Union members. He is giving more work to him and threatened to represent the matter to CGM and to send complaints every day; after all he (Branch Manager) is a servant; though the Manager attempted to cool down his temper, he stood up angrily, raised his right hand to warn the Branch Manager that *“I will see your end”*; when the Manager stood up, CSE touched his right shoulder and tried to push him.

Above riotous acts are done in the presence of customers, thereby damaging the reputation and image of the Bank. His act amount to riotous, disorderly and indecent behaviour in the premises of the Bank and prejudicial to the interest of the Bank.

9. During the enquiry, three witnesses / Officials who were present inside the Bank at the relevant place and time were examined for the Management. The 1st witness was the Deputy Manager accounts, he was the Superior Officer of the CSE at the relevant point of time; he supported the case of the prosecution. The other two witnesses / the colleagues of the CSE turned hostile to the prosecution case.

Relaying on the Report sent by the Complainant dated 17.04.2007, to the Regional Office with the attestations of three staff members (who were examined as PW-1 to PW-3) and also evidence of PW-1, the Enquiry Officer recorded his finding as 'proved' in respect of the allegations about the alleged incident. However, with regard to the allegation that the riotous acts were done in presence of the customers tarnishing the reputation and image of the Bank in the premises of the Bank and prejudicial to the interest of the Bank was held not proved. Though, the Enquiry Officer has not meticulously analysed each segment of evidence placed before him, he has reiterated the entire oral evidence of PW-1 and recorded his finding; the finding cannot be attributed perversity. The 1st Party has availed opportunity during the Domestic Enquiry, to cross examine the Management witnesses and to adduce defence evidence by examining a witness and to produce documents.

I am convinced that, during the enquiry he had reasonable opportunity to defend himself against the charge. He has submitted his remarks to the Enquiry Report and also was given opportunity of personal hearing. Though the Disciplinary Authority finds that the charges are serious and it could be treated as grave misconduct with an intension to give another opportunity to improve by taking lenient view of the matter, passed the punishment as noted supra. When the Punishment Order has no financial implication since the salary was brought down for one stage for a period of one year only. The 1st Party once had submitted his arguments on Domestic Enquiry but later did not turn up to demonstrate whether the punishment imposed had any adverse effect on his career or promotional opportunities. When the Domestic Enquiry is held valid, in the usual course the Tribunal will contain from interfering with the minor punishment except in the circumstances where grave injustice is caused to the concerned workman. The allegations having been proved during the Domestic Enquiry and punishment Order since, not shown either as harsh or excessive, I hold that the action of the Management in imposing the penalty of bringing down salary to one lower stage in the scale of pay for one year upon Sh. K Pandian, Senior Assistant / 1st Party workman is legal and justified.

AWARD

The reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 28th April, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चिकमगलूर कोडागु ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट (संदर्भ संख्या 46/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 प्राप्त हुआ था।

[सं. एल-12012/68/2005-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2005) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of Chikmagalur Kodagu Grameena Bank and their workmen, received by the Central Government on 27.05.2020.

[No. L-12012/68/2005-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 10TH MARCH 2020**PRESENT** : JUSTICE SMT. RATNAKALA, Presiding Officer**CR 46/2005****I Party**

The General Secretary,
Chikmagalur Kodagu Grameena Bank
Employee Org.
C/o Chiko Bank, Head Office,
Chikmagalur – 577101.

II Party

The Chairman,
Chikmagalur Kodagu Grameena Bank,
Head Office,
Chikmagalur – 577101.

Appearance :

Advocate for I Party : Mr. D.R. Vishwanath Bhat

Advocate for II Party : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No. L-12012/68/2005-IR(B-I) dated 24.10.2005 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of Chikmagalur Kodagu Grameena Bank, Chikmagalur in not regularising the services of Sh. R. Suresh, Temporary Messenger-cum-Sweeper is legal and justified? If not, to what relief the workman is entitled?”

1. The Union has espoused the cause of Sh. R Suresh who is working as temporary Messenger cum Sweeper and sought to regularise his service.

2. The 2nd Party in their counter statement contended that, he has not completed 240 days of continuous working ever since he was appointed as temporary Messenger cum Sweeper in the year 1991 and he is not entitled for the said post. It was further contended that, the representation made by the 1st Party and his request was not considered due to the restriction imposed by the NABARD.

3. The 2nd Party though had filed the affidavit evidence of their witness subsequently he was not tendered for cross examination. A memo was filed on 28.09.2007 by the 2nd Party; the contents of which reads thus,

“The 2nd Party in the above matter submits that the services of the 1st Party has been regularized w.e.f 11.07.2007”.

4. The 1st Party adduced evidence of the General Secretary of the Union and also the 1st Party workman.

The dispute raised by the 1st Party, having been happily ended by regularising the service of Sh. R Suresh nothing more remains for adjudication, consequently there is no ensuing dispute between the parties.

AWARD**Reference is rejected.**(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 10th March, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चिकमगलूर कोडागु ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट (संदर्भ संख्या 50/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 को प्राप्त हुआ था।

[सं. एल-12012/139/2006-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of Chikmagalur Kodagu Grameena Bank and their workmen, received by the Central Government on 27.05.2020.

[No. L-12012/139/2006-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 10TH MARCH 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 50/2007

I Party

The General Secretary,
Chiko Bank Employee's Org.
C/o Chiko Bank,
Chikmagalur – 577101.

II Party

The Chairman,
Chikmagalur Kodagu Grameena Bank,
Head Office,
Chikmagalur – 577101.

Appearance :

Advocate for I Party : Mr. D.R. Vishwanath Bhat

Advocate for II Party : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No. L-12012/139/2006-IR(B-I) dated 06.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of Chikmagalur Kodagu Grameena Bank, in not regularising the services of Sh. Mohammed Jabbar, Messenger-cum-Sweeper / Driver is legal and justified? If not, to what relief Sh. Mohammed Jabbar is entitled?”

1. The 1st Party Union has espoused the cause of the employee of the 2nd Party Sh. Mohammed Jabbar. It is stated in the claim statement though he is serving in the 2nd Party for last six years, his service is not regularised; he was taken in employment during 1998 and he is serving continuously; initially he worked against leave vacancies subsequently he worked against regular vacancies. The work of a Messenger and Driver is a full time job. The action of the Management in not regularising his service is clear case of victimisation and unfair labour practice.

2. The 2nd Party in their counter statement denied the claim averments and contented that, Sh. Mohammed Jabbar is not appointed as per Regional Rural Bank (Appointment and Promotions of Officers and other Employees) Rules 1988 of Second Schedule either to the post of Driver or Driver cum Messenger or Messenger cum Sweeper (full time or part time) or Sweeper (full time or part time). He does not fulfil the norms contemplated by Rules (Supra). His name is not sponsored by employment exchange, Chikmagalur to the

Bank. The Government of India issued Order dated 29.07.1998 in super session of the Rules (Supra). He was not appointed under the said Rules.

As per the Regional Rural Bank (Appointment and Promotion of Officers and other Employees) Rules 1998, to appoint a candidate to the post of Driver or Driver cum Messenger or Messenger cum Sweeper (full time or part time) the candidate should be sponsored by concerned District Employment Exchange and the candidate must have passed 8th Standard; in addition to that for the post of Driver driving license is a must; he was never taken as a casual / daily wager whenever the work load exists at Head Office of the Branch; he has not worked continuously for 6 years. He is not empanelled in the Panel of temporary part time Messenger cum Sweeper or in the Panel of Driver or Driver cum Messenger. As per the Government of India guidelines, no candidates other than those sponsored by district Employment Exchange or Sainik Board or other Agencies shall be called for interview.

Since, he was not appointed as temporary Messenger or Driver or temporary part time Messenger cum Sweeper or Driver in the Bank, question of his regularisation does not arise for consideration.

3. To substantiate their case, the 2nd Party placed the evidence of their General Manager. He has produced the Photostat copies of the notifications dated 28.09.1988 and 29.07.1998. His cross-examination evidence was mere suggestion of the claim of the 1st Party and denial of the same.

The 1st Party had filed his affidavit in lieu of his rebuttal evidence but did not tender himself for cross-examination. Hence, his affidavit examination chief evidence cannot be counted upon. Since, the 1st Party Union is unable to demonstrate that, Sh. Mohammed Jabbar has worked as Messenger cum Sweeper / Driver at any point of time with the 2nd Party, his identity as Messenger cum Sweeper / Driver either as casual or part time, I do not find any illegality with the 2nd Party in not regularising his service.

The Union has failed to prosecute the case diligently and not entitled for any relief.

AWARD

Reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 10th March, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 443.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 07/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 को प्राप्त हुआ था।

[सं. एल-41011/74/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2016) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of South Western Railway and their workmen, received by the Central Government on 27.05.2020.

[No. L-41011/74/2015-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 12TH MARCH 2020**PRESENT :** JUSTICE SMT.RATNAKALA, Presiding Officer**CR 07/2016****I Party**

The General Secretary,
South Western Railway Employees Union,
Plot No. 17, Sanmathi Road,
Dharwad - 580 001.

II Party

The Senior Divisional Manager (Personnel),
South Western Railway,
Divisional Office,
Hubli - 580 031.

Appearance :

Advocate for I Party : Mr. M H Bhat

Advocate for II Party : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No. L-41011/74/2015-IR(B-I) dated 07.01.2016/ 12.01.2016 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the management of South Western Railway, Hubli is justified in non promoting Shri V. N. Killedar, Lorry Driver, Gr.I, SSE / Tele / Control / UBL Sr. DSTE/M/O/Hubli to the higher grade of Sr. Tech (Vehicle Driver) in PB 2 by overlooking his seniority to Shri Francis A Joseph? If not, to what reliefs the workman is entitled to?”

1. After receipt of the reference order, notice was issued to the 1st Party though served, he did not appear before this Tribunal to pursue his claim.

2. 2nd Party have filed their statement that 1st Party workman is Senior to Sh. Francis Joseph whose date of entry is 22.11.1996 whereas 1st Party's date of entry as Driver Grade-III was on 08.07.1996; vide office order dated 19.11.2001 1st Party and two of his juniors on passing the Trade Test were promoted as Jeep Driver Grade-II; Sh. Francis A Joseph accepted the promotion as Jeep Driver Grade-II but 1st Party refused promotion and continued in the same office, hence it was considered as deemed refusal. On completion of 1 year of deemed refusal vide office order dated 20.03.2003 he was promoted as Jeep Driver Grade-II and retained in the same place of work against a work charged post. The work charged post is operated for a specific period for the currency of the work. Since Sh. Francis Joseph having carried out the promotion as Jeep Driver Grade-II as per the office order dated 19.11.2001 he became Senior to 1st Party in Jeep Driver Grade-I category; without raising any objection 1st Party accepted his promotion from 20.03.2007 against a work charged post; there is a delay of 12 years in filing the claim petitions before ALC during 2015. The dispute since barred by time not maintainable. He is retired from service and there is no relationship of employer and employee within the parties.

3. Appreciating the above uncontroverted material it is inevitable to endorse the action of the 2nd Party in not promoting 1st Party workman Sh. V. N. Killedar Lorry Driver, Gr.I, SSE / Tele / Control / UBL Sr. DSTE/M/O/Hubli to the higher grade of Sr. Tech (Vehicle Driver) in PB 2 by overlooking his seniority to Sh. Francis A Joseph. The action of the 2nd Party is justified. Hence,

AWARD**The reference is rejected.**(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 12th March, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 444.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कर्नाटका ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट संदर्भ (संख्या 06/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 को प्राप्त हुआ था।

[सं. एल-12025/01/2020-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2014) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of Karnataka Grameena Bank and their workmen, received by the Central Government on 27.05.2020.

[No. L-12025/01/2020-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 28TH APRIL, 2020**PRESENT:** JUSTICE SMT. RATNAKALA, Presiding Officer**ID 06/2014****I Party**

Sh. R.V. Mohan Reddy,
S/o Sh. R. Venkatesha Reddy,
R/at Hosakallahalli Village,
D.K. Hatti Post,
Chitradurga – 577524.

II Party

The Chairman,
Karnataka Grameena Bank,
Head Office, P.B. No. 55,
Sangankal Road, Gandhinagar,
Bellary – 583103.

Appearance :

Authorised Representative for I Party : Mr. M. Rama Rao

Advocate for II Party : Mr. B. C. Prabhakar

AWARD

1. It is a Petition filed under Sec 2-A of the Industrial Dispute Act 1947 ('the Act' herein after) aggrieved by the action of the 2nd Party / Pragathi Grameena Bank presently Karnataka Grameena Bank, in refusing employment to him with effect from 17.04.2013.

2. The Petitioner contents that, he joined the service of the 2nd Party on 04.06.1993 as temporary employee on daily wage basis and served in various Branches of the then Chitradurga Gramin Bank continuously after the amalgamation of Chitradurga Gramin Bank with three other Regional Rural Banks, Pragathi Grameena Bank came into existence with effect from 12.09.2005. Thus, he became the employee of Pragathi Grameena Bank. Having served for twenty year in all, he was entitled for regularization of service which was not at all considered by the 2nd Party. In the said circumstances the temporary workman formed a Union by name Pragathi Grameena Bank Daily Wagers Workers Union (R) for redressal of their grievances.

The Management did not respond to the plea of the union to hear the grievances of the temporary employees; The Union raised a dispute before the ALC (C), Hubli. On the failure of the reconciliation the Dispute is referred to this Tribunal for his pending adjudication in CR No. 22/2013. The Petitioner is one of the concerned workmen in the said Dispute. In order to victimize him for his Trade Union activities the 2nd Party refused employment to him with effect from 17.04.2013, while he was working in IUIDP Extension Branch Chitradurga. The action of the 2nd Party is in contravention of Sec 33 of 'the Act' without following the mandatory provisions of 'the Act'. Now he is unemployed and has no source of income.

3. The claim is contested by the 2nd Party on the ground that, erstwhile Pragathi Grameena Bank with two other Rural Banks amalgamated into a single Regional Rural Bank as per the notification issued by Ministry of Finance. The Government of the India has issued guidelines / norms effecting direct recruitment and promotions vide notification dated 13.07.2010 called Regional Rural Banks (Appointment and Promotions of Officers and Employees) Rules 2010. The 2nd Party Bank is required to follow the aforesaid guidelines / Rules at the time of recruitment; in order to meet the exigencies of work, the 2nd Party Branches use to engage coolies for doing menial works on coolie charges; the engagement of the coolies was only for few hours to carry out the work of cleaning, sweeping and watering. The 1st Party was engaged as coolie for doing menial work such as cleaning, sweeping and watering; it was not a work of regular nature and his engagement was on need basis; he is paid coolie charges; whenever there was no work, he will not be engaged; his engagement was intermittent, but not continuous; the 2nd Party has no daily wagers; the Branches engage the coolies occasionally and intermittently whenever necessary for doing menial work in the Branches; there is no condition regarding age or education for the engagement of coolies. For appointment of regular attenders, as per the guidelines of the Government their name should be sponsored by Employment Exchange Department; they are not governed by any Rules and Regulations of the Bank.

It is further contended that, the 1st Party approached the Branch on 17.04.2013 but he was not engaged since there was no work. The question of refusal of work or termination does not arise; he has not worked for 240 days in any of the calendar years; there is no employee - employer relationship.

4. Both parties adduced the evidence and submitted their respective argument.

5. It has come during the evidence that, during the pendency of the present Petition a Tripartite Settlement was arrived between the Management and Trade Union namely Pragathi Krishna Grameena Bank Naukarara Okkoota on 21.11.2016, whereby, the 2nd Party agreed to enrol the services of *workmen* earlier called as *coolies* to the Branches / Offices mentioned against their name and they were to report to duty on or before 25.11.2016. The 1st Party workman Sh. R.V. Mohana Reddy is one among them and his place of work is mentioned as Godabanal. Among other things, it was also agreed that six of above workmen will continue the pending case; thus, it is agreed that the 1st Party will continue his present case. It has also emerged during the cross examination of the 1st Party workman that, he is attending the work in the branch from 24.11.2016.

The cause of action which occasioned in filing of the present Petition now seizes to exist in view of the Settlement / Ex W-1. Still, the 1st Party has not given up in pursuing the matter.

6. In his written argument he has contended that, he has produced sufficient documentary evidence to establish that he has served for more than 240 days in several years and those documents are not disputed by the 2nd Party. They have not produced any documents in support of their case that, he is not appointed against a clear vacancy of messenger; did not work continuously and was engaged to meet the exigency of work; the 2nd Party have admitted at Para 8 of their affidavit evidence that, he was not given work from 17.04.2013 onwards. The refusal of work amounts to retrenchment but without giving prior notice, notice pay, retrenchment compensation. Hence, the retrenchment is illegal.

It is further contended for him that, as per the Award passed by National Industrial Tribunal dated 30.04.1990 at Para 4.410, 4.412 and 4.425, the temporary workers are entitled for the same wages as of the permanent Sub Staff. Said Award is upheld by the Hon'ble Supreme Court of India and said Award is binding. The Apex Court in Civil Appeal No. 6950/2009 in the matter of *Tamilnadu terminated Full time Temporary LIC Employees' Association vs. LIC of India and others...*, has upheld the above Award. The 2nd Party in the light of the above, Award should have regularised the service of the 1st Party from the date of his initial appointment in 1993 and should not retrenched the service. In a similar situation the Hon'ble High Court of Karnataka regularised the service of 102 employees engaged on daily wage basis, from the date of their initial appointments (W.P No. 13580/2001 DD 03.03.2006 in the matter of *Workmen of Cauvery Grameena Bank vs. Cauvery Grameena Bank and another*). The 1st Party's retrenchment and not regularising his service even after rendering 20 years of service is illegal and an Award may be passed directing the 2nd Party to reinstate him in service w.e.f 17.04.2013 with full back wages and benefits and regularise his service from the date of his appointment from 04.06.1993.

7. It is obvious that, since the major relief of reinstatement seeking which the Petition was filed was complied by the Tripartite Settlement / Ex W-1, now he is enlarging prayer for regularisation of his service, though he is a concerned workman in the pending reference CR No. 22/2013. The points referred for adjudication in CR No. 22/2013 is "*Whether the management of Pragathi Grameena Bank, Bellary is justified in not regularising the service of 211 daily wagers? If not, to what relief the workmen are entitled to?*"

Further it is also not out of place to mention that, in another disposed off matter CR No. 39/2013, the referred issue was, "*Whether the Government of India, Ministry of Finance can explore the possibility of amending the decision / guidelines issued and to decide whether the demands raised by the Union are justified or not?*" The reference was accepted and the Award is passed on 22.11.2019 and was published by the Central

Government in the gazette on 04.12.2019. In that view of the matter, his demand for regularisation of service is seized by CR No. 22/2013 and he has to wait for a solution until disposal of CR No. 22/2013.

8. Further Sec 2-A of 'the Act' contemplates the situations wherein, an individual can file a Petition directly before this Tribunal - "*where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman.*" Having invoked the benefits of Sec 2-A of 'the Act', now he cannot expand the scope of the present proceedings. Admittedly, under the Settlement / Ex W-1, his service as coolie was agreed to be enrolled on or before 28.02.2017.

In that view of the matter, he cannot seek back wages for the period he has not worked with the 2nd Party. The platform for him to agitate for regularisation of service is not in the present proceedings.

AWARD

The petition filed under Section 2-A of the Industrial Dispute Act is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 28th April, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट (संदर्भ संख्या 21/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 को प्राप्त हुआ था।

[सं. एल-41011/36/2016-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 445.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of South Western Railway and their workmen, received by the Central Government on 27.05.2020.

[No. L-41011/36/2016-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 28TH APRIL 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 21/2017

I Party

Sh. M.B. Thayadas,
General Secretary,
South Western Railway Employees Union,
No. 936/A,
Udaynagar (Kale Layout),
Near Soda Factory,
Bengeri Main Road,
Hubli - 580023.

Appearance :

Advocate for II Party : Mr. Ramesh Upadhyaya

II Party

The Senior Divisional Personnel Officer,
South Western Railway,
Divisional Office,
Hubli - 580020.

AWARD

The Central Government vide Order No. L-41011/36/2016-IR(B-I) dated 09.08.2017 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of Senior Divisional Personnel Officer, South Western Railway, Hubli is justified in rejecting the higher pay to Sh. Louis Francis on promotion? If not, to what relief the workman is entitled to?”

1. On receipt of the reference order, notice was sent to the 1st Party but same returned unserved with the endorsement “LEFT”.
2. The 2nd Party is represented by their counsel and have filed a statement to the effect that, they are not aware of the Claim / Dispute of the 1st Party.

In that view of the matter, the referred issues cannot be adjudicated. Hence,

AWARD

Reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 28th April, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 27 मई, 2020

का. आ. 446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 04/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.05.2020 को प्राप्त हुआ था।

[सं. एल-12025/01/2020-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 27th May, 2020

S.O. 446.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2012) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27.05.2020.

[No. L-12025/01/2020-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 28TH APRIL, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

ID 04/2012

I Party

The General Secretary,
SBI Ambedkar trade Union,
No. 31, Apurva, Ashreya Eng.
School Road, S.P. Naidu Layout,
Opp. R.M. Nagar Police Station,
Rammurthy Nagar
Bangalore - 560016.

Appearance :

Advocate for II Party : Mr. Ramesh Upadhyaya

II Party

The Chief General Manager,
State Bank of India,
Local Head Office,
65, St. Mark's Road,
Bangalore – 560001.

AWARD

1. It is a Petition filed by an individual workman Sh. K. Pandian / employee of the 2nd Party Branch against the minor punishment imposed on him after the charges against him came to be proved in a Departmental Enquiry. The 2nd Party has contested the Petition.

2. The Industrial Dispute raised by a Trade Union on behalf of the Petitioner herein, on the very same cause of action was referred to this Tribunal for adjudication. Today, Award is passed in the said Dispute in CR No. 20/2012. At the request of the 1st Party workman, this Tribunal clubbed both the matters together and recorded evidence on Preliminary Issue in the present case. As such the benefit of Sec 2-A of the Industrial Dispute Act, 1947 i.e., to raise an Industrial Dispute by an individual workman is available to only such of the individual workman who is discharged, dismissed, retrenched or otherwise terminated from service. But that is not the situation in the present case. The 1st Party workman has challenged the minor punishment imposed on him which is a subject not falling within the contemplation of Sec 2-A of the Industrial Dispute Act. Hence, the Petition is not maintainable.

AWARD

The Petition is non-maintainable, hence dismissed.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 28th April, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 28 मई, 2020

का. आ. 447.—औद्योगिक विवाद अधिनियम, 1947 (14 का 1947) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या सी आर 03/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.05.2020 को प्राप्त हुआ था।

[सं. एल-22012/256/2006-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th May, 2020

S.O. 447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CR 03/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 20.05.2020.

[No. L-22012/256/2006-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 04TH MAY, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 03/2007

I Party

The Organising Secretary,
FCI Loading & Unloading Workers Union,
No. 28, Raja Snow Building,
S.C Road Seshadripuram,
Bangalore - 560 020.

Appearance :

Advocate for I Party : Mr. K T Govinde Gowda

Advocate for II Party : Mr. B L Sanjeev

II Party

The Regional Manager,
Food Corporation of India,
East End Main Road,
4th 'T' Block, Jayanagar,
Bangalore - 560 041.

AWARD

The Central Government vide Order No. L-22012/256/2006-IR(CM-II) dated 28.04.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

ADDENDUM

“Whether the demand of the FCI Loading & Unloading Workers Union for absorption & regularisation of workers who had been working in FCI Godowns at K.R. Puram, Whitefield, Unkal, K.R. Nagar and Nanjungud w.e.f. 01.11.1990 consequent upon abolition of Contract Labour in FCI vide Government of India Notification No. U-23012/Vol.II dated 01.11.1990 or from their respective date of joining is legal and justified? If yes, to what relief these workmen are entitled to”

1. The claim of the 1st Party is, the main activity of the 2nd Party is purchase of Food Grains, Storage, Transportation, Distribution and sale of food grains; they have various godowns and have employed workers for Loading and Unloading and other connected activities. The Godowns at K.R Puram, Whitefield, Unkal-Hubli, K.R Nagar and Nanjangoodu were commenced in the year 1965 and they have employed Handling and Transport Contractors; the service conditions of the workers employed in the corporation is not satisfactory; the statutory benefits are not given to them. When the contractor refused employment to the workers on 01.03.1986 the 1st Party filed the Writ petition No. 3460/1986 before the Hon'ble High Court of Karnataka, the Hon'ble High Court granted Interim Stay for refusal of employment to the Loading and Unloading Workers, they were declared as workmen of the 2nd Party vide judgment dated 25.06.1986. In the Writ Appeal No. 939/1986 filed by the 2nd Party the Division Bench directed the 2nd Party to absorb and regularise the workers; the SLP No. 25761-62/1995 filed thereon came to be dismissed. The Government of India vide order dated 01.11.1990 by invoking Sec 10 of the Contract Labour (Regulation & Abolition) Act, 1970 abolished Contract Labour System in the Godowns of the 2nd Party at K.R.P.G, Whitefield, Unkal-Hubli, K.R Nagar and Nanjangoodu. The 2nd Party to overcome the said order got the work of H&T executed through Co-operative Society. The Civil Appeal filed by the Union and the counter Civil Appeal filed by the 2nd Party were clubbed with the pending cases of Steel Authority of India and others which were disposed on 30.08.2001. As per the judgment of the Apex Court, after prohibition of Contract Labour System, the Contract Labour do not automatically become employees of principal employer, workers had to approach the Labour Department, Labour Court and Industrial Court for absorption and regularisation. They are entitled for absorption and regularisation and monthly pay scale on the basis of prohibition of Contract Labour System. The 2nd Party is not registered under Sec 7 of the Contract Labour (Regulation & Abolition) Act, 1970 and the contractor has not obtained licence under Sec 12 of the said Act. Hence, the FCI is the direct employer of the workers from the respective date of their joining duty. The workers are kept under condemned position, the contract / agreement entered by the 2nd Party for execution of H&T work is not genuine but sham, nominal to evade compliance of various beneficial legislatures. The 1st Party workers are treated under a different designation as DPS workers; the workers are entitled for parity in pay scale with the regular employees. They are also eligible for wages on the basis of A.S.R.O Contractor tender i.e. above the schedule rate of contract tender for each operation work done; in the event of less work or no work the DPS workers are eligible for minimum wages under the minimum wages notification and also less leave facilities, less working condition and less other amenities. Under the principle of equal pay for equal work the workers are entitled for monthly pay scale and wages as is given in other parts of the Country at 2nd Party Godowns. The category of Sardar, Mandal, Handling Workers and Ancillary Workers are entitled for the pay scale from 01.11.1990 to 31.12.1997 and revised scale from 01.01.1998 along with other allowances.

2. The claim is contested by the 2nd Party on the ground that, the appointment of DPS Labour came into force from 1996, based on the policy decision of Government of India and also on the decision issued by the Court, consequent upon abolition of Contract Labour System in FCI. The Labour Welfare Legislation is applicable to the claimants from the date of induction of Direct Payment System of labour in FCI i.e. from 1996. During the said period erstwhile Contract / Society labourers were appointed as DPS labourers in the notified depots by the order of the Court. For the earlier period of 1996 respective Contractor / Society are responsible to the claim. Pursuant to the direction issued by the Hon'ble High Court in W.A 939/86 vide its 252nd meeting dated 19.10.1996, the Board of the 2nd Party resolved that various concessions / preferences extended to the various Co-operative Societies / Labour Co-operative Societies are withdrawn, and the Society was to continue to participate in tender enquiries on par with other parties..... In this regard circular dated 22.11.1996 was issued by the 2nd Party, tender notifications were issued by the Regional Office / Depot Manager inviting tenders from all eligible Contractors in respect of K.G.F, Bangarpet and Bommapur Godowns. The policy decision of 19.10.1996 is not questioned and holds the field; the policy decision of 19.10.1996 for inviting tenders from open market was adopted in respect of the Godowns in K.G.F, Mysore, Maddur, Bellary, Gangavathi, Raichur, Shimoga, Hassan and Hubli. This amended policy is upheld by the Hon'ble High Court, now the tenders are invited in the open market including Labour Co-operative Societies and the work is entrusted to the successful bidders of the tenders. The 2nd Party being the Government of India Organisation has been duly complying with the relevant Government decision / Court Orders. Payment of equal pay for equal work is pending before the Hon'ble National Industrial Tribunal (NIT), Mumbai for consideration in Misc No. 06/2005 and the very same

matter is pending adjudication in CR No. 65/2002 before this Tribunal. In view of the same the reference is liable to be dismissed. The Apex Court has given its verdict on the issue of departmentalisation of DPS workers; accordingly they have to be treated as DPS only. When the case is pending before this Court in respect of payment of equal pay for equal work in CR No. 19/2005 the question of demanding absorption, regularisation of service, financial benefits, statutory benefits, welfare facilities and amenities does not arise. The claim made by the Union is imaginary, belated and they are not entitled for any relief.

3. Both parties have adduced their evidence.

4. On behalf of the 1st Party, the Secretary of the 1st Party Union adduced evidence and produced the Order of the EPF Authority in assigning Code No. KN.10066 to the Regional Office of the 2nd Party Bangalore, and the judgments of the Hon'ble High Court and Supreme Court.

By way of rebuttal evidence, the Divisional Manager of the 2nd Party placed his affidavit evidence reiterating the counter statement averments. Among other things he has produced the Circular of 06/2010 dated 24.05.2010 revising the basic structure of Sardar / Mukadam, Mandad / Tindal, Handling Labour / Loader, Ancillary Labour / Godown Mazdoor / Modia Stitcher (Ex M-5) (on the basis of the settlement arrived at between the Management of Port Trust and representatives of Federations of Port and Dock Workers on 19.01.2010. The certificate of registration of the 2nd Party under Contract Labour (Regulation & Abolition) Act, 1970 (Ex M-13). Unfortunately, the 1st Party did not come forward to cross examine this witness.

5. During the cross examination of WW-1 he admits the suggestion that they have not raised the disputes touching the EPF, ESI, Bonus and Gratuity; they have not challenged the circular dated 14.01.1996 through which DPS was introduced. He further admits in reference to CR No. 19/2005 the dispute regarding equal pay for equal work is tried.

6. The demand in this reference is for absorption and regularisation of the Godown Workers at K. R Puram, Whitefield, Unkal, KR Nagar and Nanjangud w.e.f. 01.11.1990 consequent upon abolition of the Contract Labour in the notified Godowns dated 01.11.1990 or from the respective date of joining service?

7. The dispute in CR No. 19/2005 is

“Whether the management of FCI is justified in denying enrolment of 180 contract workers (list enclosed) to DPS System with effect from 22.04.1996? If not, then deciding on the nature and content of relief?”

“Whether the FCI Loading & Unloading Workers Union is justified in demanding absorption and regularization of the services of the above 180 contract workers w.e.f. 01.11.1990 (date of prohibition of contract labour vide Government of India notification dated 01.11.1990) or from the date of joining? If yes, then determining the nature and content of relief?”

8. The dispute in CR 65/2002 is

“Whether the demand of FCI loading and Unloading Workers Union claiming equal pay for equal work w.e.f. 01.11.1990 and re-introduction of monthly pay scale for DPS workers w.e.f. 01.09.2001 is justified? If so, to what relief the workmen are entitled?”

9. It is clear from the above that the subject matter of the present dispute encroaches the subject matter of the dispute in CR No. 19/2005 and the said reference is adjudicated on 04.05.2020 by rejecting the reference. Whatever be the awards of the Tribunal and the Hon'ble High Court with regard to the absorption and regularisation of Contract Workers after Abolition of Contract Labour by the notification of the Government of India vide notification No. U-23012/Vol.II dated 01.11.1990, all such disputes are given a logical end by the judgment of the Apex court in Steel Authority of India Ltd. & Ors. Vs National Union Water Front Workers & Ors reported in (2001) 7 SCC, 1 it was held that:

“(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment;

(4) We over-rule the judgment of this court in Air Indias case (supra) prospectively and declare that any direction issued by any industrial adjudicator/any court including High Court, for absorption of contract labour following the judgment in Air Indias case (supra), shall hold good and that the same

shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularise the services of the contract labour in the concerned establishment subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the concerned establishment has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.

We have used the expression industrial adjudicator by design as determination of the questions aforementioned requires inquiry into disputed questions of facts which cannot conveniently be made by High Courts in exercise of jurisdiction under Article 226 of the Constitution. Therefore, in such cases the appropriate authority to go into those issues will be industrial tribunal/court whose determination will be amenable to judicial review”.

10. The reference cannot be entertained for the following reasons :

- (i) The workers on behalf of whom the dispute is raised are not identified, their number is indefinite.
- (ii) None of the concerned workmen is examined as a witness.
- (iii) The demand for automatic absorption and regularisation is not legal in view of the judgment of the Apex Court in Steel Authority of India (supra).
- (iv) There is no tangible evidence to infer that the workers at any point of time worked directly under 2nd Party and paid wages by 2nd Party.

Even if there was some irregularity on the part of the Contractor or the principal employer in getting registration under Sec 7 of the Contract Labour (Regulation & Abolition) Act, 1970 or the Contractor getting licence under Sec 12 of the said Act, that will not go to the benefit of the Union, facts remains that after abolition of Contract Labour in the notified Godowns, arrangements were made to get the work executed through Contractors / Workers' Co-operative Societies. And the present system is contract will be given to those who bid the tender and whose tender applications are accepted. Hence,

AWARD

The reference is rejected.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 04th May, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 28 मई, 2020

का. आ. 448.—औद्योगिक विवाद अधिनियम, 1947 (14 का 1947) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या सी आर 17/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.05.2020 को प्राप्त हुआ था।

[सं. एल-22012/189/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th May, 2020

S.O. 448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CR 17/2004) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 20.05.2020.

[No. L-22012/189/2003-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 05TH MAY, 2020

PRESENT: JUSTICE SMT. RATNAKALA, Presiding Officer

CR 17/2004

I Party

The Organising Secretary,
FCI Loading & Unloading
Workers Union,
No. 28, Raja Snow Building,
S.C. Road, Sheshadripuram,
Bangalore – 560020.

II Party

The Senior Regional Manager,
Food Corporation of India,
No. 10, Pallavi Complex,
Kalinga Rao Road,
Bangalore – 560027.

Appearance :

Advocate for I Party : Mr. K.T. Govinde Gowda

Advocate for II Party : Mr. B.L. Sanjeev

AWARD

The Central Government vide Order No. L-22012/189/2003-IR(CM-II) dated 25.02.2004 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the claim of FCI Loading & Unloading Workers Union for reinstatement / restoration of Sh. T.K. Ameer Jan alias Ameer Jan & 96 others who allegedly worked in FCI, Bommapura Godown, Hubli w.e.f 15.09.1997 is legal and justified? If yes, to what relief they are entitled to?”

1. The claim of the 1st Party is that, the 97 concerned workmen were working in the 2nd Party Godown through its Contractor. Since there was a prohibition of Contract Labour System in the 2nd Party, a Policy decision was taken to entrust the Handling and Transportation work in the Godowns of the 2nd Party to Godown workers Co-operative Society to remove the middlemen / private Contractor; Circulars dated 19.01.1989, 16.03.1989, 17.01.1994 and 27.07.1994 are issued in this regard. Some of the Officials of the 2nd Party colluded with former H&T Contractor of 2nd Party / Mr. Pakirappa Kalyana Settiyar and formed a Co-operative Society in the name 'Food Grains Loading and Unloading Worker's Co-operative Society Limited' and entrusted Handling and Transport work to the Society w.e.f 12.06.1993.

The matter was taken to the Hon'ble High Court by the Union and the Contract was quashed vide order dated 01.12.1993 in Writ Appeals 1496 and 1497/1993 and 1692-1693/1993. The 2nd Party was directed to guide and form / register the 2nd Party Godown Workers Co-operative Society exclusively with the erstwhile 2nd Party workers of Bommapura Godown without allowing the shadows of Former H&T 2nd Party Contractor of the 2nd Party. Strictly speaking, the 2nd Party is not supposed to operate FCI Godown Hubli at Bommapura under the Contract Labour System. During 1980, the District Office of the 2nd Party at Hubli attached various Hired Private Godowns in and around Hubli-Dharwad District and carried the H&T work by attaching the same to the 2nd Party's own Godown at Unkal-Hubli. After construction of additional Godown at Bommapura-Hubli; the hired Godowns were shifted to Unkal Godown, Hubli.

In the year 1993 some of the work from the main Unkal Godown was shifted to New Godown at Bommapura, Hubli without shifting the godown workers; this was to help the Private Contractor. The FCI

ought to have shifted some of the erstwhile workers from old Godown at Unkal to the additional godown at Bommapura. The 2nd Party had no right to operate additional Bommapura Godown separately under Contract Labour System in view of Prohibition of Contract Labour System vide notification of the Government dated 01.11.1990. The FCI used to pay wages from October 1996 under the DBS to the FCI Godown workers at Unkal Hubli without extending the same to the Bommapura Godown workers.

The Hon'ble High Court of Karnataka vide its Order dated 01.08.1995 in WA No. 939/1986 directed the FCI to observe and regularise the godown workers in view of abolition of Contract Labour System. Said Order is confirmed by the Hon'ble Supreme Court in SLP No. 24968-24969/95 dated 29.01.1996; said principle is applicable to the 1st Party workmen. Though requested the 2nd Party, the benefit is rejected to the 1st Party workmen. Against the Order of Hon'ble High Court some of the Officials of the 2nd Party once again colluded with Former H&T Contractor Mr. Pakirappa Kalyana Settiyar and his brother Gangadhar and formed a new Co-operative Society with some of the erstwhile workers of the 2nd Party at Bommapura Godown Hubli and along with some of their henchmen; they registered the Society also, in the name and style of Hubli FCI Loading Unloading and Transportation labour Co-operative Society, they included more outsiders as workers working in the Bommapura Godown; the Society misused more than Rs. 3,00,00,000/- (Three Crores Rupees) of society amount; the 2nd Party and the Contractor Society avoided to bring the Bommapura Godown workers under the Management of the 2nd Party.

The Society obtained the separate EPF Code No. KN/17017 but did not deposit the EPF amount. They failed to deposit the contributions pertaining to the workers who are the members of the 1st Party Union working in the Bommapura Godown, Hubli. They have falsely declared more wages in the balance sheet which is false. Deliberately, they have not disclosed EPF number of some of the workers even though they have worked in the Bommapura Godown. The workers working in the Bommapura Godown were threatened not to raise their voice against the illegal Benami transaction carried on by the Contractor Society.

At the time of registration of Hubli FCI Loading / Unloading and Transportation Labour Co-operative Society, it had original members of 50 members. The Promoters, Members and Shareholders were falsely declared as handling workers, but these members never worked earlier to the formation of the Society at Bommapura Godown. Some of the concerned workmen belonged to Schedule Caste, Schedule Tribe, Back Ward Class and Minority groups; they are illiterate. The 2nd Party and the Contractor Society under the Benami transaction used to pay only 25% out of H&T bill amount as wages and EPF deposits, remaining amount is misused by the Benami transaction Holders and Managing Committee members for their personal gain; 100% of the additional benefits received from the 2nd Party towards weekly off, wages, incentive per bag. Reimbursement of EPF and Bonus, reimbursement of secretarial staff salary are misused by Managing Committee members and their dynasty. The signatures of the 1st Party members were obtained on the bogus vouchers fraudulently and the amounts are drawn immediately thereon from State Bank of India, Keshavapura Branch, Hubli.

The 1st Party submitted a Demand Notice dated 08.09.1997 to the 2nd party and it's Contractor Society for claiming various statutory benefits amounting to Rs. 1,43,76,204/-. The 2nd Party refused employment to the listed workers in the Bommapura Godown w.e.f 15.09.1997. The workers used to attend the work at the Bommapura Godown and repeatedly requested to provide employment, but they refused to consider the same.

Further it is stated that, the 2nd Party has not registered itself as Principal Employer under Sec 7 of Contract Labour (Abolition and Regulation) Act, 1970. The Contractor has also not obtained license under Sec 12 of the above Act. Sec 9 of the above statute prohibits employment of contract labour without registration by the Principal Employer and without obtaining license for the contract work wherefore, the concerned workmen are the workers of 2nd Party by operation of Law.

It is further claimed that, the 2nd Party changed its policy decision for the year 2000-01 by Inviting Tenders from the Private Contractors for executing the H&T works in its Godowns and stopped encouraging Godown workers Co-operative Society. The 2nd Party is directly answerable to reinstate the above 97 workers at Bommapura Godown-Hubli w.e.f 15.09.1997 with back wages and consequential benefits.

2. The 2nd Party contested the claim denying the entire claim. Their case is, they had appointed Labour Co-operative Society as their Contractor for handling and transport work at Bommapura Godown. The Registrar of the Co-operative Society is the appropriate Authority to redress the grievance of 97 workers. Only 14 labourers were on roles with the Hubli FCI Loading / Unloading and Transportation Co-op Society / the erstwhile H&T Contractors at FSD Bommapura Godown. Due to their continuous absence from duty the said 14 labourers were terminated after giving notice as per the bye-laws of the Society; other workers never worked as the H&T workers for the Society. Bommapura Depot was not in existence when the Central Government abolished Contract Labour System in the year 1990. Hence, it is a non-notified Depot and handling transport

work was entrusted to the Contractor / Co-operative Society; FCI used to appoint Contractors once in two years; the Contractors used to engage the workers and execute the work of handling and transport of food grains.

On abolition of the contract labour system in notified Depots during 1990, a Policy was framed to entrust the handling and transport work to the Labour Co-operative Societies. Bommapura Depot started functioning in 1993 and the said Co-operative Society was appointed as a Contractor. As per the Policy, contract could be awarded to any private parties by inviting Tender; this Policy is upheld by the Hon'ble High Court of Karnataka in WP No. 16406/97, 29492-93-97 and 38448/98. It was the responsibility of the Contractor / Society to arrange men and material to assign the work as per Contract Agreement. It was the practice of the Contractors to engage same labourers who had worked with earlier contractor. Since, Bommapura Depot started functioning in 1993, procedure followed prior 1991 is not relevant. Sh. Pakkappa Kalyana Settar and Mr. Gangadhar have not worked in the Society as complained by the 1st Party Union. Sh. Pakkappa Kalyana Settar had already expired and Sh. Basavaraj K Settar was not appointed.

The appointment / enrolment of workers of the Society were with the Contractor / Society Management and the Principal Employer / 2nd Party cannot interfere in the matter of appointments to the Society. The President and the Secretary of the Society are elected to the respective post as per the bye-laws of the Society by its members. The handling and transport operations in each Depot is regulated as per communication from the Head Quarters. The Contract function at Bommapura Depot was carried out without problems. The workers in question were engaged by their own Co-operative society and functioning of the society is bound by provisions of Co-operative Society. The Co-operative Society was the necessary Party to this Dispute for non-joining the necessary party.

It is further stated that, the workers were brought by the Contract / Society and engaged for FCI work. Payment was paid to the Contractor / Society for the volume of work done in accordance with the terms and conditions of the Contract signed between the FCI and the Contractor Society. FCI had no administrative control or discretionary power on the workers engaged by the Contractors. Same workers who were working with the Contractor formed their own Co-operative Society. On expiry of a particular Contract, FCI is not bound to give contract to any particular Contractor Society. No complaint about misuse of Rs. 3,00,00,000/- (Three Crores Rupees) is received either from Registrar of Co-operative Society or from Employees' Provident Fund Authorities who are monitoring and auditing accounts of the society. EPF in respect of the members of the Society was promptly remitted by the Society and all other formality was observed. No due certificate was issued by the EPF Authorities for the period of Contract. Contract wages were disbursed by the Society and appropriate register of labourers was maintained by the Society and the same was supervised by the FCI. There were no complaints either from the workers or from EPF or Co-operative Society Authorities. The Contractor Society had the responsibility to increase the number of workers depending on work required, in order to avoid demurrages to Railways after obtaining from the Principal Employer.

The 1st Party had complained with ALC (C) Hubli with regard to various statutory benefits amounting to Rs. 1,43,76,204/-; after verification by ALC(C) Hubli, it was found that out of the list of 96 workers, only 14 were enrolled in the Society and the others' names were bogus. The Society was advised to take back 14 labourers for which the Society agreed and enrolled 13 labourers except Sh. T.K. Ameer Jan who was working in another Society. Later, these 13 members gave a letter that, they signed the complaint by force from the workers Union and were misguided. Now, out of the 13 labourers, 6 joined the Society, only 3 are attending work. After failure before the ALC(C) Hubli, the Union filed a Writ Petition before the Hon'ble High Court in W.P No. 2661 and 2663/94 which was dismissed for non-prosecution. The case taken up before Assistant Registrar of Co-operative society was dismissed during July 2002. The 2nd Party has no Authority to accept / refuse employment to any workers in the Society. There is no direct employer-employee relationship. The labourers and the claim against the 1st Party is not valid.

3. During the pendency of the proceedings, the 1st Party filed application to implead Hubli FCI Loading / Unloading and Transportation Labour Co-operative Society Limited as a party to the proceedings and the said application is rejected vide order dated 03.09.2007.

4. Three witnesses are examined for the 1st Party - the first witness is the Secretary of the 1st Party Union and the second and third witnesses are the concerned workmen. Rebuttal evidence is adduced by the Manager (General) of the 2nd Party.

WW-1 during his cross examination admits the suggestion that, the Management used to appoint Contractors once in two years and the Contractors were in turn were engaging the labourers; there is no Contract between the labourer and the Management; the Society used to make payment and other benefits to the labourers. The list of workers given by him as per Ex W-6 is the proposed list and not the actual list.

WW-3 admits his signature at Ex M-2 which is a letter addressed to the 2nd Party by the Co-operative Society dated 24.08.2002 wherein, the 2nd Party was informed that only 14 workers are identified out of 97 labourers. The letter reads thus,

“it is inform that only 14 workers are identified out of 97 labourers as per your letter as above at the time of ALC conciliation meeting and rest of the persons are not at all the members of the Society. The 14 persons (workers) who are willing to work at Bommapura depot are given undertaking to continue copy of the letter enclosed for reference. Out of 14 workers only 5 workers are presently in our labours (not legible) members list. 9 members are not turn up for work. As per bye-laws Rule, their services terminated as per the names furnished at over leaf from our Society. This is for your kind information. Signed.”

Rebuttal evidence is adduced by the Manger (General) of the 2nd Party reiterating the Counter Statement allegations. It was brought out that, he has joined the service of the 2nd Party in the year 2015 and has no personal knowledge of the facts involved in this Reference.

5. The documents produced by him are, Ex M-2 / letter by the Society giving the names of 5 persons presently working and nine persons who did not turn up. Ex M-3 is the copy of the call letter addressed to T. K. Ameer Jan by the Society (Unfortunately, this letter was not confronted to Ameer Jan (WW2) while he was in the witness box). Ex M-4 is a representation made by 13 workmen wherein, they had stated that the allegations of non-payment of EPF dues is false; they have come to know that the society has remitted the eligible EPF amount to the concerned Authority. Sh. Rajasabyahatti / WW-3 is one of the Signatory to this representation but this letter was not confronted to him while he was in the witness box. Ex M-5 is the copy of the Conciliation Proceedings before the Assistant Registrar of Co-operative Society under Sec 70 of the said Act. Going by this document, the Society had withdrawn its Dispute pertaining to eight concerned workmen. However, subsequently the complainants / five of the concerned workmen did not prosecute the Dispute and the case was dismissed. Ex M-6 is the reply given by the 2nd Party to the representation of the Society demanding reinstatement of its 97 workers – the demand is rejected by the District Manager of the 2nd Party. Ex M-7 is a copy of the No Due Certificate issued by Employees Provident Fund Authority stating that the Society is not due of the amount from 01.08.2001 to 31.07.2003.

6. As against this, the 1st Party has produced the Circulars and the Judgements cited in the Claim Statement, the list of 97 workmen which is admitted by the witnesses as a provisional list, membership of the Society list pertaining 50 persons. Ex W-8 is the Order passed by Regional Provident Fund Commissioner in respect of allotment of separate code number to the various FCI Contractors' Establishments, working in connection with the working of FCI District Manager, Bangalore, thereby allotting Code No. KN/10066. Ex W-9 is the demand based on behalf of 90 workers working at Bommapura Godown to the 2nd Party and the Society claiming benefits of bonus, weekly wages etc. Ex W-10 is the notice by the ALC(C) Hubli to the Contractor / Society about the irregularities in not maintaining records, indicating action both against the Principal Employer and the Contractor. Ex W-11 is, the EPF records maintained in Form No. 23 pertaining to 110 workers under the establishment code 17107. Under Ex W-12 series, they have produced ID cards issued by the society in respect of the workmen.

7. Segmenting the referred issue, presupposes that 97 persons' named in annexure have worked in FCI Bommapura Godown-Hubli w.e.f 15.09.1997, they have worked for the FCI and are terminated. Their claim is for reinstatement.

Basically, the number of concerned workmen is indefinite. Society has given the list of workmen at Ex W-6 as 46. Even that is not a definite number; it is a proposed list but not actual list. Out of 97 workmen, affidavits of 80 persons though were filed only three were tendered for cross examination and a submission was made that the very same cross examination will be adopted in respect of other workmen.

Much is stated about the Contract Labour System that was practiced at Bommapura Godown-Hubli. As such the Central Government had not prohibited the Contract Labour System at Bommapura. Even if, there was any irregularity between the Principal Employer and the Contractor Society for not complying with the provisions of Contract Labour (Abolition and Regulation) Act, 1970 that is the different aspect of the matter which could have been agitated before the Authorities under the said Act only. On the showing of the 1st Party itself, Provident fund is not remitted under the Code number allotted to the Regional Office of the FCI, Bangalore. Several allegations against the Co-operative Society are given a go by without tackling the matter before the Appropriate Authority that is Registrar of Co-operative Society. As admitted by WW3 only 14 out of 97 concerned workmen are identified and out of them only five are available.

8. It is not the case of the either of the Parties that the 2nd Party was instrumental in appointing the workmen or terminating the workmen. The benefit of Judgement of Hon'ble High Court in W.P No. 939/1986

for absorption and regularisation of the Godown workers consequent upon abolition of contract labour system cannot be encashed for the 1st Party since there was no such abolition of Contract Labour System at Bommapura Godown, where the 1st Party allegedly worked. No case is made out by the 1st Party that, the workers in question by virtue of their service rendered continuously against a sanctioned post for number of years have acquired any right to demand reinstatement. Hence, there is no merit in the demand of the 1st Party for reinstatement / restoration of 97 persons mentioned in the annexure to the Order of reference.

AWARD

The reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 05th May, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 28 मई, 2020

का. आ. 449.—औद्योगिक विवाद अधिनियम, 1947 (14 का 1947) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या सी आर 19/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.05.2020 को प्राप्त हुआ था।

[सं. एल-22012/317/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th May, 2020

S.O. 449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CR 19/2005) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 20.05.2020.

[No. L-22012/317/2003-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 04TH MAY 2020

PRESENT: JUSTICE SMT.RATNAKALA, Presiding Officer

CR 19/2005

I Party

The Secretary,
FCI Loading & Unloading Workers
Union,
No. 28, Raja Snow Building,
S.C Road Seshadripuram,
Bangalore - 560 020.

II Party

The Senior Regional Manager,
Food Corporation of India,
No. 10, Pallavi Complex,
Kalinga Rao Road,
Bangalore - 560 027.

Appearance :

Advocate for I Party : Mr. K. T. Govinde Gowda

Advocate for II Party : Mr. B. L. Sanjeev

AWARD

The Central Government vide Order No. L-22012/317/2003-IR(CM-II) dated 23.03.2005 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the management of FCI is justified in denying enrolment of 180 contract workers (list enclosed) to DPS System with effect from 22.04.1996? If not, then deciding on the nature and content of relief?”

“Whether the FCI Loading & Unloading Workers Union is justified in demanding absorption and regularization of the services of the above 180 contract workers w.e.f. 01.11.1990 (date of prohibition of contract labour vide Government of India notification dated 01.11.1990) or from the date of joining? If yes, then determining the nature and content of relief?”

1. The claim of the 1st Party Union is, The 2nd Party Corporation was established by the Government of India in the year 1965; Godowns and Depots are setup by the 2nd Party at various places in the state of Karnataka. The concerned 180 persons are the members of the Union, who were engaged for the Depot and were treated as Loading and Unloading Workers / Handling Workers and Ancillary Workers; the nature of their work was loading and unloading of food grains bags from Railway Wagons to Godowns and from Godowns to Lorries, Stocking the food grain bags, weighing the food grain bags, Fimiligation of food grain bags, cleaning the food grains, re-bagging, re-stocking, re-stitching and connected work. 2nd Party used to pay wages on piece rate basis through it's so-called H&T Contractors that resulted in the exploitation of labour by the Contractors. They were not provided statutory benefits and were paid less wages, the Godown Workers formed the 1st Party Union during the year 1983-84 and various violations committed by the 2nd Party and its Contractors towards the Godown Workers was agitated. The Employees Provident Fund and Miscellaneous Provisions Act, 1952 was extended to the workers from 1983-84 and the Code Number was allotted to the 2nd Party. The Contractor when refused employment to the Godown Workers w.e.f 01.03.1986, the Union filed a Writ Petition in No. 3460/1986 before the Hon'ble High Court of Karnataka; the Writ petition was adjudicated by holding that *the workers employed by these Contractors are not 'Contract Labour' of these Contractors but they are really the workers of FCI.*

Writ Appeal was filed by the 2nd Party challenging the said petition in W.A No. 939/1986, which was disposed on 01.08.1995 by the Division Bench of the Hon'ble High Court of Karnataka directing the 2nd Party to absorb and regularise the workers. The Special Leave Petition No. 25761-62/1995 filed by the 2nd Party against the said judgment came to be dismissed. But the 2nd Party did not implement the judgment by absorbing and regularising those workers; during the pendency of the Writ Appeal No. 939/1986 the Government of India prohibited the Contract Labour System at K.R Puram, Whitefield, Bangalore, Unkal Hubli, K.R Nagar and Nanjangoodu and other parts of India vide notification dated 01.11.1990; the 2nd Party instead of departmentalising the Godown Workers issued Circular No. 01/1989 dated 19.01.1989 replacing the Labour Co-operative Society in the place of contractor. They have taken steps to form the Society and entrusted work to Karnataka Contract Labour and Transport Co-operative Society at K.R Puram, Whitefield, Bangalore, Unkal Hubli, to the FCI Hamalies Co-operative Societies. 1st Party filed another Writ Petition in No. 3675-3683/95 claiming absorption and regularisation of the Godown Workers working at K.R Puram, Whitefield, Unkal Hubli, K.R Nagar and Nanjangoodu. An interim arrangement was made by the order of the Hon'ble High Court of Karnataka in the said case for the smooth functioning of the K.R Puram Godown. Accordingly, work had to be given to those of the labourers who are working in the 2nd Party and covered under the 2nd Party EPF Code No. 10066/A. Same arrangement was extended to other Godowns also. The 2nd Party constituted Official Committee for identifying and verifying workers who had to be given work; deliberately they gave up 180 workers listed in the Annexure to the order of reference. The 1st Party union objected the same and sought to ratify the list. Despite the same the 2nd Party did not permit these workers to work, now they are unemployed. The 1st Party and the Workers filed Writ Petition No. 36061-62/1991; subsequently the Writ Petition Nos. 3675 to 3683/1995 were disposed of on 22.11.1996 directing to absorb and regularise the workers working in the notified Godowns, in view of Prohibition of Contract Labour System w.e.f. 01.11.1990. The Writ Appeal No. 345-354/1997 filed by the 2nd Party against the above judgment came to be disposed. The Civil Appeal filed by the Union and the counter SLP filed by the 2nd Party and other similar matter were clubbed with the pending cases of Steel Authority of India case which were disposed on 30.08.2001. As per the judgment of the Apex Court, *'after the Prohibition of Contract Labour System the Contract Labour do not automatically become the employee of Principal Employer and the workers and Union have to approach the Labour Court / Industrial Court for their Absorption and Regularisation.'*

This judgment is prospective. Hence, the principle laid down by the Apex Court is not applicable to the 1st Party workmen. The 2nd Party still have kept them in condemned position. The Union withdrew the W.P

No. 36061-62 with liberty to raise the Industrial Dispute, accordingly the dispute is raised before the Conciliation Authority and the matter is now referred to this Tribunal by the Government of India.

2. It is further pleaded, the Union is claiming for employment to 180 listed Contract Workers to D.P.S System from the respective dates of denying employment by the 2nd Party and also for their absorption and regularisation with pay scale in view of Prohibition of Contract Labour System by the Government w.e.f. 01.11.1990. The 2nd Party had not registered itself under Sec 7 of Contract Labour (Regulation and Abolition) Act, 1970 and so-called contractor had no licence under Sec 12 of the Contract Labour (Regulation and Abolition) Act, 1970. They are seeking re-employment as is done in respect of others who are employed as per the interim order of the Hon'ble High Court of Karnataka dated 18.04.1996 and 08.10.1996. The 2nd Party has refused employment to 180 Workers from Contract Labour to D.P.S System w.e.f 22.04.1996 in K RPG from May 1996, Whitefield from 11.07.1996 and Unkal Hubli from 07.10.1996.

3. The 2nd Party countered the claim on the following grounds:

The FCI has been getting the work of handling and transporting of food grains through Private Contractors; whenever the Contractors are changed, labourers would be continued with some hard bargain for better benefit; the dispute in respect of higher wages resulted in the Contractor's unsuccessful effort to bring in his own labourers. The Hon'ble High Court of Karnataka in W.P No. 3460/86 ordered *the 2nd Party to treat the workmen employed by the Contractors on 28.02.1986 as its workers*; in the W.A No. 939/86 the Hon'ble High Court of Karnataka ordered that *".....the question of modalities for regularisation of labourers was left to the FCI to take policy decision as to how many workers are required to be retained for performing the work and the corporation is not bound to accept all the workers of the contractors as the Departmental employees....."* 2nd Party never denied eligible benefits to the workers in the Godown in the name of contract labourers; the Government of India vide notification dated 01.11.1990 though prohibited engagement of labourers on contract for loading and unloading and related work, there was no instruction how to carry on operations. In the circumstance circular dated 19.01.1989 was issued and the workers were encouraged to form Co-operative Society and were awarded the contract. This was to assure that all the benefits of contract will be dissipated to every single member worker. The petitioner was also having one such Society in the name of Karnataka Contract Labour and Transport Co-operative Society and was awarded contract at K.R Puram, Whitefield, Unkal Hubli.

4. It is further pleaded that Direct Payment System was introduced as per the draft scheme filed before the Hon'ble High Court in W.P No. 3675-83-95. At that time 40,000 MTS of food grain value of Rs. 25 crores was lying at FSD K RPG for 2 years, the FCI approached the Hon'ble High Court for instruction to open the godown, the interim order passed by the Learned Single Judge on 18.04.1996 was to engage labourers covered by EPF Code No. KN-10066 directly. As per the order of the Hon'ble High Court of Karnataka, FCI commenced modality without losing time. A Committee was constituted consisting of District Managers, Deputy Manager to enrol the genuine labourers under Direct Payment System; enrolment was made on 22.04.1996 at K RPG and operations commenced on 22.04.1996 itself. On verification of the list of labourers submitted by the Union, it was found that some of them were neither handling labourers nor ancillary labourers, hence they could not be considered for enrolment; there is no provision under Direct Payment system for workers other than Handling labourers and Ancillary labourers; the EPF Nos. beyond 1225 shown in the list pertaining to 1995-96 and their names were not reflected in the list of workers provided by the said union, while the verification at Whitefield was in process. The genuineness of these persons was declared doubtful by the Committee as there was no document to prove that they were workers of the erstwhile Society; the union did not come forward to prove their genuineness, when called for by the Verification Committee. Hence, the claim has no validity. The Union finally shirk the responsibility by stating that, union is no way connected with the affairs of the erstwhile Society. Some of the persons working under the Society from 1996 are considered for enrolment in view of the Headquarters instruction. The instruction of the Headquarters was, workers who were already working in the respective depots for the last 3 years and who had worked for 9 out of 12 months in the last year preceding April 1996 and whose EPF deduction has been made are to be extended the benefits of DPS. The actual requirement of labourers in each depot should be assessed and maintained as per norms. There were surplus labourers above the prescribed norms at FSD, K RPG and Whitefield Depots. There is no such provision for induction of Society Staff under D.P.S, this aspect is informed to the union vide letter dated 09.08.2001. The Food Corporation of India is not bound to absorb any of the contract labour after the notification Prohibiting the employment of Contract Labour in any of the establishment of Food Corporation of India in view of the judgment of the Apex Court dated 30.08.2001 in SLP(C) No. 16122-31/98. The inclusion / removal of workers / member of the society also was with the contractor / society as there is no employer - employee relationship between the FCI and the workers.

5. In furtherance of their case, both parties have adduced evidence.

The 2nd Party examined its Regional Manager. Among other things he has stated with regard to listing of labourers in accordance with the interim direction given by the Hon'ble High Court of Karnataka, that in accordance with the scheme formulated in W.P Nos. 3675-83/95, the FCI constituted committee consisting of District Managers and Deputy Manager to enrol genuine labourers under Direct Payment System; enrolment was made on 22.04.1996 at KRPG and operations commenced on 22.04.1996 itself. The Result of W.P Nos. 3675-83/95 challenged in Writ Appeal No. 345-354/97 by the 2nd Party was dismissed. However, the SLP (C) No. 16122-31/98 was allowed vide judgment dated 30.08.2001 and order of the Hon'ble High Court of Karnataka was set aside. The automatic absorption of contract labourer has been overruled. The list submitted by the Union in respect of persons who are not enrolled under D.P.S was found that they were neither Handling labourers nor Ancillary labourers. There is no provision under Direct Payment System other than Handling labourers and Ancillary labourers. The EPF Numbers beyond 1225 shown in the list pertaining to the year 1995-96 and their names were not reflected in the list of workers provided by the Union, while verification at Whitefield was in process. The genuineness of those persons was declared doubtful by the Committee and the Union did not come forward to prove the genuineness when called for by the Verification Committee – Those who were working in the respective depots for the last 3 years and who had worked for at least 9 out of 12 months in the last year preceding April 1996 and whose EPF deduction was made, alone were extended the benefits.

Though this witness is cross examined at length, no benefit accrued in favour of the 1st Party other than the undisputed documentary evidence on record. The witness has produced the documents, EPF Scheme for the period 1993-94; report of the Committee on verification of the labourers at KRPG with reference to instructions under DPS; the Office order regarding introduction of Direct Payment System in FCI owned depots notified by Ministry of Labour, for Prohibition of employment of Contract labour under Contract Labour (R&A) Act, 1970; the documents pertaining to verification of the DPS workers; the order of the Regional Provident Fund Commissioner in allotting sub code numbers to the 14 depots of the FCI; the certificate of registration under Sec 7 of the Contract Labour (Regulation & Abolition) Act, 1970 dated 22.07.1986.

6. Rebuttal evidence is adduced by the Secretary of the 1st Party Union. While reiterating the claim statement, he has given a list of 20 workers whose PF contribution was deducted, who were not permitted to work at KRPG Godown. He has vented his grievance about the mode of identification of the workers. The documents pertaining to EPF returns and the identification cards are produced by him.

WW-2 to WW-9 are the concerned workers listed in the Annexure to the point for reference. Their affidavit evidences are identical. All these persons claim that they were working at Whitefield Godown continuously for 2 years, and their name is mentioned under the EPF Code of 2nd Party in No. 10066/A. They have produced the identity cards issued by the Society on behalf of which they had worked in the Godown, this fact is admitted by WW's also. These workmen claim that they have worked for a period ranging from 1 year to 2 year.

7. It is the history now that though the workers were ordered to be enrolled for Direct Payment System by the interim order passed by the Hon'ble High Court of Karnataka in W.P No. 3460/1986, the matter has reached finality by the judgment of the Apex Court in SLP(C) No. 16122-31/1998 which was disposed off by a common judgment along with Steel Authority of India Ltd. & Ors. Vs National Union Water Front Workers & Ors reported in (2001) 7 SCC, 1 it was held that :

“(3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment;

(4) We over-rule the judgment of this court in Air Indias case (supra) prospectively and declare that any direction issued by any industrial adjudicator/any court including High Court, for absorption of contract labour following the judgment in Air Indias case (supra), shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a

genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularise the services of the contract labour in the concerned establishment subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the concerned establishment has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.

We have used the expression industrial adjudicator by design as determination of the questions aforementioned requires inquiry into disputed questions of facts which cannot conveniently be made by High Courts in exercise of jurisdiction under Article 226 of the Constitution. Therefore, in such cases the appropriate authority to go into those issues will be industrial tribunal/court whose determination will be amenable to judicial review”.

8. That being the principle reining the field as of now, the irregularity committed if any by the Verification Committee now is not within the purview of the present adjudication. The 2nd Party in the year 1986 itself had registered under Sec 7 of the Contract Labour (Regulation & Abolition) Act, 1970 for loading, unloading, handling and transport of food grains at its depots in favour of the Regional Manager FCI to employ 500 contract labour through the listed 12 Contractors. The Abolition of Contract Labour in the 2nd Party was dated 01.11.1990 but the dispute is referred to this tribunal vide order dated 23.03.2005, none of the witnesses came before the Court claiming that they were working with the 2nd Party as on 01.11.1990, on their own showing all of them have worked through the Contractor / Society continuously for 1 or 2 years prior to the 11.07.1996. On that ground also, they do not qualify for direct absorption into the service of the 2nd Party.

9. As such no documentary evidence is placed by the Union to demonstrate that they had approached the Management seeking enrolment of 180 contract workers listed in the Annexure. There is no contradiction to the case of the 2nd Party that the genuineness of the persons though was declared doubtful the Unions did not come forward to prove the genuineness when the same was called for by the Verification Committee – the union finally shirk the responsibility by stating that the union is no way connected with the affairs of the erstwhile Society. Identity Cards produced by the 1st Party are issued by the Society. It has clearly come in the evidence of the WW's that they were appointed by the Society and stopped work by the Society.

10. In view of the discussion supra, 2nd Party Food Corporation of India is justified in denying enrolment of 180 contract workers to DPS System w.e.f. 22.04.1996 and there is no justification in the demand of the 1st Party in seeking absorption and regularisation of service of 180 workers w.e.f. 01.11.1990.

AWARD

The reference is rejected.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 04th May, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 28 मई, 2020

का. आ. 450.—औद्योगिक विवाद अधिनियम, 1947 (14 का 1947) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या सी आर 21/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.05.2020 को प्राप्त हुआ था।

[सं. एल-22011/5/2010-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th May, 2020

S.O. 450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CR 21/2010) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 20.05.2020.

[No. L-22011/5/2010-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

DATED : 28TH APRIL, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 21/2010

I Party

The Regional Secretary,
FCI Executive Staff Union,
Karnataka Region, C/o FCI District Office,
K.R. Puram Complex,
Vijjinapura,
Bangalore - 560016.

II Party

The Regional Manager,
Food Corporation of India,
No. 19/0, East End Main Road,
4th 'T' Block, Jayanagar,
Bangalore - 560041.

Appearance :

Advocate for I Party : Mr. S. Raju

Advocate for II Party : Mr. B.L. Sanjeev

AWARD

The Central Government vide Order No. L-22011/5/2010-IR(CM-II) dated 07.06.2010 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of FCI, Regional Office, Bangalore, Karnataka in imposing the penalty of reduction of pay by one stage for a period of one year without cumulative effect vide order dated 30.08.2003 to Sh. G.N. Srinivasan, Asstt. Grade-I (Tech) is legal and justified? To what relief is the workman entitled for?”

1. The 1st Party Union has espoused the cause of the employee of the 2nd Party who has suffered a Punishment Order of reduction of pay by one stage for one year without cumulative effect.

It is the contention of the 1st Party that, the 2nd Party issued Articles of Charge Sheet to the workman alleging failure to report actual condition of wheat Stocks and failure to report about the excess of damaged bags collected by AG-1(D) under referring non-homogenous damaged grain sample for categorisation by District categorisation committee; the workman submitted his reply to the Articles of Charge. Despite the same without considering his reply the Punishment Order is imposed on him; the Punishment Order thereby reducing his pay by two stages for one year without cumulative effect imposed on him without holding enquiry is illegal. In Appeal the Appellate Authority modified the order of penalty by reducing pay by one stage for one year without cumulative effect.

2. The 2nd Party in their Counter Statement contended that, dispute is raised after a lapse of five years. The 2nd Party is a Unit of Government of India Organisation and bound by Rules and Regulation framed from time to time by Government of India. The 1st Party works as Assistant Grade I (technical) under the jurisdiction of Area Manager which is a subordinate Office of the 2nd Party. The reply submitted by him to the Charge memo was not satisfactory; Disciplinary Proceeding was held against him under clause of minor penalty..., it is not mandatory; it is discretionary decision of the Disciplinary Authority to hold an enquiry. On going through his reply and relevant records, the Disciplinary Authority came to conclusion that there are sufficient valid reasons to impose punishment, since all the charges are proved beyond doubt.

The Appellate Authority vide Speaking Order dated 03.08.2004 modified the order of the Disciplinary Authority to that of “*reduction by one stage for a period of one year without cumulative effect*”. The Reviewing Authority / Managing Director, FCI considered the Review Petition and found that there is no reason to differ with the Order passed by the Appellate Authority and rejected the Review Petition.

3. Both Parties have adduced evidence and submitted argument.

4. To justify their action, the 2nd Party examined its Manager quality control and placed the relevant documents on record.

Rebuttal evidence is adduced by the Former Union Regional Secretary who is presently Union Advisor of the 1st Party Union, Executive Staff Union to reiterate the Claim Statement allegations. Through him relevant documents are marked as Ex W-1 series. During cross examination he admits that he has no personal knowledge of the nature of the work the 1st Party workman was performing, on the basis of information given by Sh. Srinivasa he has filed his affidavit evidence – he has no knowledge of the irregularities committed by the workman.

The Punishment Order by which the workman is aggrieved is passed by the Appellate Authority / Zonal Manager (South) vide Ex M-5 dated 03.08.2004 against the Order passed by the Disciplinary Authority at Ex M-5 dated 30.08.2003; Para 4 of the Order the Appellate Authority records that, “*on going through the charge memo, reply to the charge memo, finding of the Disciplinary Authority, Appeal petition and other concerned records and on application of mind observed that though the Appellant has not brought out any new material in r/o Article I and II, the contention of the Appellant in r/o Article II carry some force. The observation of the Disciplinary Authority in r/o Article III is not strictly with reference of Article III as the Appellant has substantiated that he has not referred the samples as given in the Charge Sheet. In the circumstance, I find the penalty imposed on the Appellant needs modification to meet the ends of justice*”.

Thus, exercising the powers conferred under Regulation 72 (2) of FCI (Staff) Regulations, 1971, Appellate Authority has modified the punishment to that of “*reduction of pay by one stage for a period of one year without cumulative effect*”. In the same order the workman was also informed of his right to file Review Petition.

Though, the order of the Appellate Authority does not detail the charges, and the explanation submitted by the workman, the application of his mind is reflected when he has disagreed with the finding of the Disciplinary Authority on the charge at Article No. III.

5. In his appeal memo, the 1st Party did not demand for an independent full-fledged enquiry. It is the submission of the 2nd Party that, in the matters of minor misconduct discretion is vested with the Disciplinary Authority to dispense Domestic Enquiry and pass appropriate Order, under Regulation 56 of the FCI (Staff) Regulation, 1971. Hence, the 1st Party cannot urge that for not holding a full-fledged enquiry on the charge memo; the Punishment Order is vitiated.

He has not entered into the witness box to rebut the evidence placed by the Management witness. While the order of the Appellate Authority is of 03.08.2004, the reference of the Dispute by the Central Government is of the year 2010. There is no explanation about the delay; the witness examined by him has no personal knowledge of the case. The Disciplinary Authority had followed the procedure, thereby gave him opportunity to submit his explanation to the charge, and in exercise of his discretion dispensed the Domestic Enquiry into the charges and on consideration of the material on record imposed punishment on him, no fault in the procedure can be attributed.

The order of the Appellate Authority since is based on independent application of mind and the said order since has no financial implication, this Tribunal has to contain from interfering with the quantum of punishment. The 1st party workman has not made out a case for exercise of jurisdiction of Tribunal under Section 11 of the Act by adducing evidence.

AWARD

The reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 28th April, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 28 मई, 2020

का. आ. 451.—औद्योगिक विवाद अधिनियम, 1947 (14 का 1947) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फूड कारपोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह-श्रम न्यायालय, बेंगलोर के पंचाट (संदर्भ संख्या सी आर 42/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.05.2020 को प्राप्त हुआ था।

[सं. एल-22012/395/1995-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 28th May, 2020

S.O. 451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CR 42/2000) of the Cent.Govt.Indus.Tribunal-cum-Labour, Bangalore as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 20.05.2020.

[No. L-22012/395/1995-IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 19TH MARCH, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 42/2000

I Party

The Secretary,
FCI Workers Union,
Jackline Nilayam,
Opp. FCI, Vijnapura,
BANGALORE – 560016.

II Party

The Senior Regional Manager,
FCI Regional Office,
BANGALORE – 560027.

Appearance :

Advocate for I Party : Mr. V.S. Naik

Advocate for II Party : Mr. K.S. Bheemaiah

AWARD

The Central Government vide Order No. L-22012/395/99-IR(C-II) dated 16.06.1999 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the claim of the Food Corporation of India Workers Union relating to items mentioned in the ‘Annexure’ is justified? If so, what relief the Union is entitled?”

1. Following are the demands as per the annexure, Arrears of wages for the handling/ancillary workers for the period from Sept 1993 to December 1993 to the extent of Rs. 10,29,071.71/-.

Wages to the extent of Rs. 7,40,603.36/- for the period from January and February 1994.

Payment of higher rate of wages amounting to Rs. 12,01,670/- payable to the workers who were engaged as Sardar and Mandal for the period 01.05.1996 to 31.07.1997.

Payment of additional benefit to the extent of Rs. 5,30,498.56/- to the FCI workers.

2. The claim of the 1st Party Union as regards the first demand is – at the relevant point of time, the schedule of rates as per the Handling contract rate agreement between 2nd Party No. 1 and 2nd Party No. 2 was revised at 435% but payment was not made by the Society at the same rate. The 2nd Party No. 1 did not ensure payment of arrears to the workmen for the period September 1993 to December 1993. The 2nd Party No. 1 being the Principal Employer is not required to make good the arrears of wages.

Regarding demand No. 2 – the 2nd Party No. 2 did not pay wages to the Handling and Ancillary workers for the period January and February 1994 without any reason. The Principal Employer / 2nd Party No. 1 did not consider the request of workmen to make payment. During the pendency of the Conciliation Proceeding, the 2nd Party No. 2 paid sum of Rs. 3,62,000/- and Rs. 3,78,603.36/- is still due.

Regarding demand No. 3 – vide circular dated 27.07.1994, the FCI granted additional benefits to the workmen working through Co-operative Societies. During the pendency of the Conciliation proceedings, the 2nd Party No. 1 paid Rs. 2,05,288/-, they are still due of Rs. 3,25,210.56/- to the workmen.

Regarding demand No. 4 – this claim is based on the revision of SOR (piece rates) and minimum guaranteed daily wages to the direct payment contract workers. The claim is in respect of workers engaged as Sardar and Mandal for the period 01.05.1996 to 31.07.1997. The revision of SORs' is in pursuance to the circular of 27.07.1994; existing rate of minimum guaranteed daily wage is revised from Rs. 71 and Rs. 67 to Rs. 85 and Rs. 80/- respectively from 01.01.1996. Direct payment system in K.R. Puram godown was introduced on 01.05.1996. The Sardars and Mandals working in K. R. Puram godown are not paid as per the revised payment of minimum guaranteed daily wage of rates as prescribed vide Headquarters Circular No. IR(L)/8(22)/94 issued by the FCI on 14.06.1996 for the period 01.05.1996 to 31.07.1997. Accordingly, Union is claiming Rs. 12,01,670/- towards the amount due to Sardar and Mandal.

3. The Counter Statement of 2nd Party No. 1 / FCI is, Contract labour was abolished w.e.f. 01.11.1990. The 2nd Party No. 2 / **Karnataka Contract Labour and Transport Co-operative Society** (Society herein after) was allowed to work as a Contractor and was given payment as per the work slip submitted by them. From the said amount Society adjusted Rs. 3,72,000/- towards advance / statutory recoveries. During the conciliation proceedings though requested by them, the ALC did not summon the Office bearer of the Society to produce records and payments effective and amount adjusted towards advance and statutory recoveries from the labourers; the 2nd Party could not produce those documents since they are not in possession of the same.

Regarding 1st demand - the Society had produced supplementary bill in respect of the above period for an amount of Rs. 9.70 lakhs. The bills were admitted, passed as per eligibility and payment arranged on 05.02.1994 after effecting recovery of security deposit amounting to Rs. 1,37,900/- and Rs. 7,16,963/- towards EPF for the above period since the Society had failed to meet EPF remittances for the said period, the wages from September 1993 to December 1993 was disbursed to the Society and there are no dues. As a Principal Employer, FCI deducted 7,16,963/- from the Society and remitted the amount with EPF Authorities.

Regarding 2nd Demand – the work slips submitted by the Society for the period January 1994 and February 1994 was passed for payment of Rs. 6.44 lakhs. The labourers belonging to Calcutta Union working under the Society seized their pay slips from the Society and placed the same before the FCI for payment. The work slips were admitted for Rs. 70,000/- vide Bill No. 49/50. The total amount of Rs. 7.34 lakhs was paid to the Society; from the amount the Society has paid 3.62 lakhs to the labourers in the presence of Assistant Manager; the workmen are paid in accordance of circular of 27.07.1994.

Regarding 3rd demand – an amount of Rs. 3.72 lakhs was adjusted towards advance already paid to the labourers and other statutory recovery; no step was taken by ALC to summon the Society to produce records of payments effected and amounts adjusted towards advance and statutory recoveries.

Regarding 4th demand – the claim is exorbitant; if the Society had produced documents in respect of paying higher rate of wages during the period of Society, the question of recognition / making higher rate of payment would arise. In the absence of those documents, the Management did not recognize Sardar and Mandal as demanded by the Union when DPS was introduced w.e.f 01.05.1996. In this regard, there was unrest for sometime in the 2nd Party; however, amicable settlement on the issue was arrived; Sardar and Mandal payments were effected from 01.01.1998; they have received all payment towards Sardar and Mandal w.e.f 01.01.1998. The society did not establish through documentary evidence, payment of higher rate of wages to Sardar and Mandal thereby effecting interest and remittance of EPF contribution.

It is further stated that, though the labourers preferred the claim for Rs. 5,30,498.56/-, the eligibility of the Society towards additional benefit was only Rs. 2,05,288/- which was already paid by 2nd Party No. 1. The workmen are paid according to the circular issued by the Corporation dated 27.07.1994.

4. The 1st party there after filed their reply to the Counter Statement denying the case made out by the 2nd Party. They further alleged that, the security deposit at 5% of Rs. 10,29,071.71/- comes to Rs. 51,454/- and EPF contribution of 10% comes to 1,02,907/-, the workers are not responsible for failure of FCI to recover EPF contribution, though the contribution was contributed by workers and the security deposit was for the past period. The wages for the period September 1993 to December 1993 which is not paid to the workers by the Society is payable by the Principal Employer / FCI.

In respect of the 2nd demand claimed for Rs. 7,40,603.36/- only a sum of Rs. 3,62,000/- was paid to the workers directly in January 1995 so a balance of Rs. 3,78,603/- is still payable. In respect of additional benefit to extent of Rs. 5,30,498.56/- only a sum of Rs. 2,05,288/- is paid and Rs. 3,25,210.56/- is still remaining.

5. In justification of their demand the 1st Party examined four witnesses and produced three documents. The 2nd Party examined one witness, unfortunately his cross examination did not close on the hearing date and the matter was adjourned for further cross examination. By the time, the matter reached the stage of further cross examination of MW1, the 2nd Party No. 1 could not tender him for cross examination and it was submitted that the witness is already retired.

6. Both have submitted their written argument.

7. The 2nd Party No. 2 / Society could not be served though notice was issued twice. However, as per the order sheet of 06.09.2010 one Advocate Sh. KTGG had undertaken for 2nd Party No. 2. Notice is received by his Junior also, still 2nd Party No. 2 / Society is not represented.

The reference does not stipulate the details of concerned workmen. However, the 1st Party have produced the Photostat Copy of list dated 18.07.1995 of handling workers, casual labourers. The other documents produced are supplementary agreement entered into between the Society and FCI (Original) / W-1, a letter dated 05.08.1995 addressed to the Society by the FCI returning the bill submitted by the Society in respect of extension of additional benefits to the LCSS for handling of bags – M/s FCI, H&T Hamalis Co-operative Society / W-2, format of Tender application (W-3).

None of the above documents would give the correct picture of the amounts in controversy between the parties.

8. During the cross examination of WW-1 / Vice President of the 1st Party Union, he admits the Photostat copy of a letter addressed to the District Manager of the FCI by Assistant Manager Labour Cell, vide this letter the 2nd Party decided to appoint 12 persons from the gang of 12 of K.R. Puram as Sardar and Mandal and they were allowed wages from 01.01.1998 and EPF recovery was to be made from 01.01.1998 and paid to such Sardars and Mandals. That takes away the demand for payment of higher rate of wages amounting to Rs. 12,01,617/- payable to the workers who were engaged as Sardar and Mandal for the period 01.05.1996 to 31.07.1997. It is beyond the scope of present reference to record a finding as to whether the 12 workmen have rendered service as Sardar and Mandal for period 01.05.1996 to 31.07.1997.

9. The fourth demand is in respect of additional benefit to the extent of Rs. 5,30,498.56/- to the FCI workers. In the claim statement at Para 5, they have referred to a circular dated 27.07.1994 ‘granting additional benefits as approved by Board of Directors to be extended to the workmen working through the Co-operative Societies’. While the 4th demand at the annexure is in respect of the FCI workers, the claim statement justifies the demand in respect of the workers working through Co-operative Societies. The justification made before the Tribunal is not in accordance with the fourth demand indicated at Annexure four. That apart, the circular of 27.07.1994 is not produced for verification. It is their own case during the conciliation proceeding that FCI paid a sum of Rs. 2,05,288/-. Hence, they are restricting the claim of Rs. 3,25,210.56/-. The claim made for the workers of the Co-operative Society since extraneous to the demand of the FCI workers and also since the circular of 27.07.1994 is not made available, it cannot be said that the said demand is justified.

10. Now coming to the question of arrears of wages for Handling and Ancillary workers at Demand No. 1 of the annexure, the justification is, the FCI did not ensure payment at revised rates for the period September 1993 to December 1993 and also demand No. 2 is that, they are not paid wages for the month of January and February 1994. However, they admit during the pendency of the proceeding, the Society paid them 3,62,000/- through an Officer of FCI. The onus of arrears of wage and wages at the revised rates is sought to be fastened against the FCI under Section 21(4) of the Contract Labour (Regulation and Abolition) Act, 1970 said provision reads thus,

21(4). In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor any contract as a debt payable by the contractor.

Thus, it is the bounden duty of the Employer to ensure prompt payment of wages by the Contractor otherwise shall make short payment of wages / arrears of wages to the Contract employees and recover the

amount from the Contractor by deducting from any amount payable to the Contractor or as debt due. Unfortunately, the demand for arrears of wages and wages at revised rate was not made as and when the amount fell due.

11. The Dispute is raised after a long gap of five years. While the Claim was referred during March 2000, the claim statement was filed only on 26.02.2002. The burden of justification of demand was on the 1st Party; on their failure to lead evidence, the matter was posted for evidence of the 2nd Party. The affidavit evidence of the Management witness was filed on 03.08.2004 and the matter was posted for Cross examination of MW-1. In the meanwhile, the 1st Party filed application calling for documents from the 2nd Party. On contest, this Tribunal passed order on 06.02.2006 and disposed of the application with its considered order. Again, the matter was posted for cross examination of MW1 on two hearing dates i.e., 08.06.2006 and 06.07.2006, the witness was cross examined in part and the matter was posted for further cross examination.

On 16.11.2006, my Learned Predecessor on noticing that the burden was on the 1st Party to justify their demand deferred the further cross examination of MW-1 and directed the 1st Party to adduce evidence. Thereafter, it took more than a decade for the 1st Party to close their evidence, that was on 15.07.2019; by this time, MW-1 had already retired and was not available for cross examination.

12. It cannot be lost sight of that the Officials of Corporate body entities who are on the helm of affairs to look into Court matters keep on changing either on retirement, transfer or on promotion. Thus, the cases of the Public Institutions which are pending before the Judicial Forums / Tribunals are orphaned without proper care. In such events, it is likely that the Public Institutions run by tax payers' money suffer set back. The present case on hand is a classical example of the inbuilt procedural lapses in the conduct of the case.

The 2nd Party after the closure of the 1st Party evidence did not adduce evidence to meet the case of the 1st Party. Not only MW1 could not be tendered for cross examination but also no other Official from the department is examined at least to produce documents in support of their case. But I am not inclined to uphold the demand of the 1st party for the reason that no evidence is adduced by the 2nd Party. The claim is raised long after the engagement of the society was dispensed.

In the said situation, where is the question of FCI deducting from the bills payable to the Society? In that view of the matter in my considered opinion no responsibility can be fastened against FCI / 2nd Party No. 1 in respect of the demand No. 1 and 2. The Union has to recover the amount due to them directly from the Society.

For the discussion Supra, the reference as far as the third demand for the demand in annexure pertaining to the higher rate of wages to Sardar and Mandal for period 01.05.1996 to 31.07.1997 is rejected and the fourth demand for balance payment of additional benefit to the extent of Rs. 5,30,498.56/- to the FCI workers is rejected.

AWARD

The reference is partly allowed.

This Tribunal finds no justification in the demands of the 1st Party Union listed in the annexure to the reference order against the FCI / 2nd Party No. 1.

The 2nd Party No. 2/Karnataka Contract Labour and Transport Society Ltd., is directed to pay Rs. 10,29,071.71/- in respect of arrears of wages at 435% in respect of Handling / Ancillary workers for the period September 1993 to December 1993 and also Rs. 7,40,603.36/- towards arrears of wage for the period January and February 1994.

Out of the above amount individual workman's share shall be ascertained and paid directly to the particular workman after proper identification.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 19th March, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 29 मई, 2020

का. आ. 452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 53/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.05.2020 को प्राप्त हुआ था।

[सं. एल-12011/15/2004-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 29th May, 2020

S.O. 452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2007) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 29.05.2020.

[No. L-12011/15/2004-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 22ND MAY, 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 53/2007

I Party

1. The General Secretary,
State Bank of India Ambedkar
Trade Union, No. 31,
Apoorva Ramamurthy Nagar,
Opp. Police Station,
Near Ashraya English School,
Vijinapura,
Bangalore -560016.
2. Sh. P. Thippanna,
S/o Sh. Muthyalappa,
R/o Door No. 25/2/205,
Sri Sathya Sainagar,
Hindupur - 515201.
3. Smt. Parvathamma,
W/o Sh. Bhojappa,
R/o No.7, Nakali Bande,
14th Main, 27th Cross, Jayanagar,
Bangalore - 560041.
4. Sh. K. Karunanidhi,
S/o Sh. G Krishnaswamy,
R/o No. 137, Rudrappa Garden,
Viveknagar Post,
Bangalore - 560047.
5. Sh. H. C. Beliappa,
S/o Sh. Chennaiah,
C/o Sh. M. Narayan,
No. 1360, Mahadevapura Post,
Cauverynagar, Whitefield Road,
Bangalore - 560048.

II Party

1. The Chief General Manager,
State Bank of India,
Local Head Office,
St. Mark's Road,
Bangalore - 560001.
2. The Chief Manager (Personnel),
State Bank of India, Zonal Office,
Personnel Section, 48, Church Street,
P B No. 5014, Bangalore - 560001.

6. Sh. Kari Huche Gowda,
S/o Sh. Kunna Huchegowda,
R/o No. 42, 6th Temple Road,
Kondandaramapuram, Malleswaram,
Bangalore - 560003.

Appearance :

Advocate for I Party : Mr. B. D. Kuttappa

Advocate for II Party : Mr. Ramesh Upadhyaya

AWARD

The Central Government vide Order No. L-12011/15/2004-IR(BI) dated 26.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

“Whether the action of the management of State Bank of India in terminating the services of S/Sh. P. Thippanna, K Karunanidhi, H C Belliappa, Kari Huche Gowda and Smt. Parvathamma is legal and justified? If not, what relief they are entitled to?”

1. The 1st Party No. 1 / Trade Union has espoused the cause of the workmen listed as 1st Party No. 2 to 1st Party No. 6. Their case is, the 1st Party workmen were working as Messengers / Sweepers in the 2nd Party in different branches for 11 to 20 years continuously; their work was permanent in nature but artificial breaks were made by the 2nd Party in their service. Their service was not regularised and they are not granted benefits on par with permanent employees. They were treated as temporary employees; during the period of break also they were made to work and are paid on Petty Cash basis; 2nd Party gave fictitious names to the workmen with an intention to avoid their absorption. At the instance of the workmen, the 1st Party No. 1 Union made representation on 14.08.2002 inter alia demanding various benefits, but same was not considered. Hence, they raised dispute before the Labour Authorities on 15.10.2003. They sought for an advise to the Management to regularise their service. They were refused employment on 08.12.2003. Their service is terminated during the pendency of the conciliation proceeding; their termination amounts to illegal retrenchment for not following Sec 25-F of 'the Act'.

2. The claim is contested by the 2nd Party disputing the claim statement allegations.

It is contended that, the 2nd Party engages temporary employees / Sub staff to work on daily wages in the leave casual vacancies of Messenger for carrying menial jobs such as Sweeping, Cleaning of premises etc. Vide Bipartite Settlement dated 17.11.1987 amended on 16.07.1988 all eligible temporary employees were to be given chance for considering them for permanent absorption subject to terms and conditions contained in the agreement. Accordingly, a panel of eligible temporary employees was made. The salient feature of empanelment was,

- i) Daily wagers who had completed the required qualifying service only during the period 01.07.1975 to 31.07.1988 and temporary employees and daily wagers, who are found suitable for permanent appointment, will be empanelled separately.
- ii) keeping in view (a) the enormity of the problems and (b) the extension of currency period of the panels of temporary employees upto 1994, eligible temporary employees who have not been empanelled or who could not appear in the interviews held in pursuance of the agreement of 17.11.1987 and had been pursuing their case thereafter would be given another chance to appear for the interview so that the existing panels can be enlarged by way of supplementary panels; the latter panels will be used only after the earlier panels of temporary employees have been exhausted.
- iii) Original panels and supplementary panels of temporary employees will be used for filling vacancies in sub-ordinate cadre arising upto 1994; panels of daily wagers will be used for filling vacancies arising in 1995 and 1996.

Accordingly, arrangements for implementation of the above guideline was made; advertisement was released in May 1991 inviting applications at the Branch level. The concerned branches were to scrutinise the details of those in conformity with the guidelines issued and report the matter to the Head office.

3. There were 3 categories –

A – who have completed 240 days temporary service in any continuous block of 12 calendar months or less during the period 01.07.1975 to 31.07.1988.

B – who have completed 270 days temporary service in any continuous block of 36 calendar months during the period 01.07.1975 to 31.07.1988.

C – those who have completed minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months during the period 01.07.1975 to 31.07.1988.

4. Further it is contended that aforesaid aggregate temporary service of 270, 240 days 70 days or 30 days should have been put by a daily wager at any one or more offices / branches falling within a module as existing/defined as on 31.07.1988. The concession was given as one-time measure (not to be treated as precedent). Each branch / office is to be treated as one establishment and temporary service put in at the Branch/Office along will be reckoned for the purpose.

The candidates will be appointed in full time or part time positions as per the Bank's needs they will be treated as new entrants and will not be entitled for any back wages etc. Their appointment will be effective from the date they are taken up for permanent appointment.

5. It is further contended that the 1st Party workmen were placed in the list of 'C' Category as per the number of the days of work done during the relevant period. The employees falling in A, B and C list were absorbed according to their seniority in the list, into the vacancies arising upto December 1994, until the lapse of the panel in March 1997; though the cut off date was March 1997, the panel was kept alive upto December 1997. The 1st Party workmen are not eligible for permanent absorption as the panel has lapsed in December 1997. The employee who had put in 90 days of service was the last employee to be absorbed before the panel lapsed. The 1st Party workmen Sh. P Thippanna had put in 86 days of service, Smt. Parvathamma 64 days, Sh. H C Belliappa 73 days, Sh. Karunanidhi 88 days and Sh. Karihuchegowda 54 days; there were large number of employees who had completed more number of days of temporary service; the panel lapsed before the turn of the 1st Party reached. The allegation that their service was utilised in different names is denied. As of now there is no recruitment of staff in the Bank. The claim is untenable.

6. Both parties addressed evidence and arguments.

7. 1st Party produced 17 documents; they are the Photostat copies of the cheques issued to the workman by way of cheque to workman Sh. Belliappa from December 2002 to July 2003. The amount ranges between Rs. 500/- to Rs. 4,244/- (Ex W-1 series); Medical reimbursement application submitted by Sh. Belliappa / Ex W-2; Photostat copy of the voucher and cheque received by someone not among the 1st Party workmen at Rs. 1,600/- towards cleaning charges for 16 days (Ex W-3); Ex W-3 to Ex W-11 are the documents pertaining to one Bopaiah who is not the 1st Party workmen; Ex W-12 is the Photostat copy of the Attendance Register from 26.12.2002 to 13.07.2003 maintained in respect of 1st Party workman Sh. H C Belliappa; Ex W-13 is the Banker's Cheque Account of 30.04.2003 pertaining to 4 persons including Sh. Karunanidhi, Sh. Belliappa and Sh. Kari Huche Gowda; Ex W-14 and Ex W-15 are the Photostat copy of the Attendance Register between the 02.11.2001 to 30.04.2002 in respect of Kari Huche Gowda 1st Party workman; Ex W-16 and Ex W-17 are the Photostat copy of the Attendance Register commencing from 01.05.2002 to 31.05.2003.

2nd Party has produced Ex M-1 which details the names of the temporary employees called for interview and the number of days they had worked; this document is in corroboration to the pleadings of the 2nd Party in their counter statement whereby they had mentioned the number of the days worked by the 1st Party workmen.

8. During the cross examination of 1st Party workman Sh. H C Belliappa / WW-1, he fairly admitted that the Bank has made payments towards the number of days they have worked.

Sh. K Pandian / WW-2 is the President of the 1st Party Union, but no document was produced by him to demonstrate that it is a Registered Trade Union and he only is the President of the said Union. He also

admits that the 1st Party workmen were working on daily wages and paid wages on monthly basis; the 2nd Party in the process of appointments issue public notifications through Newspaper, called for applications from the public, after interview they were selected. The 1st Party workmen were also interviewed since they had worked between 1975 to 1988 they are not selected.

9. The scope of the present reference is the justification of termination of the 1st Party workmen. Admittedly neither there was appointment order nor termination order, they have worked on temporary basis as Messengers. They were not selected though they attended the interview; the seniority list on which appointments were made to the post of Sub-staff is not the question to be resolved. The short question is, removal without following mandate of Sec 25-F of 'the Act'. Though it was pleaded that the workmen had served continuously with artificial breaks and were paid under fictitious names, there is no credible evidence to appreciate said allegation. The Attendance Registers are produced pertaining to Sh. Kari Huche Gowda and Sh. H C Belliappa, it is difficult to accept these documents as genuine since it is not a general register of all the staffs / temporary staffs and nothing is shown that the respective Branch had maintained separate Attendance Register to each of the temporary workman. The workmen have not challenged the seniority list Ex M-1 which was prepared in the year 1995. Admittedly they have received their legitimate dues from the 2nd Party for having worked as Sub-staff for temporary period; since they were not successful in getting appointment to the permanent post / full time / part time which was in vogue upto December 1997, they approached the Conciliation Officer seeking regularisation of service and in the course of Conciliation the colour of the dispute changed since they were discontinued from service, thereby challenging legality of their Termination. There is not dispute to the fact that they were empanelled in accordance with the Bipartite Settlement entered into by the Employees of The All India Bank Employees Federation and the Management, since they had served in between 01.07.1975 to 31.07.1988. The documents produced by the 1st Party pertains to 2002- 2003 only. No specific averment is made for the 1st Party as to from which date each of the workmen have served. However, they have fixed the date of refusal of employment as 08.12.2003 (during the pendency of the conciliation proceedings). Having received the legitimate dues in respect of the temporary service rendered by them and having not produced credible evidence that they worked continuously for 240 days or more in a calendar year the termination does not fall within the category of Retrenchment contemplated by Sec 2(oo) of 'the Act', their termination is not illegal and they cannot press into action Sec 25-F of 'the Act'.

There is no merit in the dispute raised by them. The judgment relied by them will not bestow any benefit for them in view of the facts and circumstances they are placed in.

AWARD

The reference is rejected.

(Dictated to o/s Steno, transcribed by her, corrected and signed by me on 22nd May, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 29 मई, 2020

का. आ. 453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 50/2014-15) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.05.2020 को प्राप्त हुआ था।

[सं. एल-41011/87/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 29th May, 2020

S.O. 453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2014-15) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Nagpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 29.05.2020.

[No. L-41011/87/2014-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/50/2014-15

Date: 08.11.2019

Party No.1(a): The Divisional Railway Manager,
Central Railway,
Kingsway, Station Road,
Nagpur (M.S.)-440001.

Party No. 1(b): The Chief Personnel Officer (IR),
Central Railway,
Mumbai C.S.T.,
Mumbai.

V/s.

Party No. 2: The General Secretary,
Parcel Porter Sanghatana,
New Mankapur, Plot No. 37, Near Mhada Colony,
Nagpur-440030,

AWARD

(Dated: 08th November, 2019)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the Management of Central Railway and their Union, Parcel Porter Sanghathan for adjudication, as per letter No. L-41011/87/2014-IR (B-I) dated 17.11.2014, with the following schedule:-

"Whether the action of the management of Central Railway, Nagpur in declining the claim of Shri. Rajesh S/o Baburao Sukhdeve for compassionate appointment in lieu of death of his mother late Tarabai Baburao Sukhdeve is fair, just or legal? If not, to what relief is entitled to the concerned dependent of deceased workman?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement. In response to which, the union, Parcel Porters Sanghathan ("The Union" in short) filed the Statement of Claim and the management of Central Railway ("Party No.1" in short) filed its Written Statement.

3. On behalf of union, they filed statement of claim by asserting that, they are registered trade union and petitioner is a regular member of this trade union. Petitioner is legal heir of deceased employee or workman (Baburao Sukhdeve), who was the permanent employee in Railway service. The petitioner is a family member and legal heir of the deceased workman.

4. According to the union, workman (Baburao Sukhdeve) was the permanent employee in railway service. The workman died and petitioner was living with his widow mother, Smt. Tarabai Baburao Sukhdeve, who was the bread earner of petitioner's family, but Party No. 1 harassed them and did not extend their employment on compassionate ground of the deceased employee.

5. According to the union, petitioner applied for compassionate appointment through the nodal officer, but management did not consider his name. According to them, decision of Party No. 1 to denial their employment is unjust, prejudicial and malafide. So he prayed that, Tribunal pass an award to consider the

compassionate ground appointment of applicant/petitioner and direct to the Railway Authority to consider and review his case on humanitarian ground under Railway Board's order, one death one appointment basis under the Staff Welfare Scheme.

6. Party No. 1 filed written statement by asserting that, union has no locus standi to sue on behalf of the petitioner, as the said union has not been recognized by the non-applicant organization. They admitted that, Parcel Porter Sanghatan is registered for Nagpur Division of South East Central Railway. Whereas the deceased employee was working in Nagpur Division. According to them, in Central Railway, there are two recognized unions namely, Central Railway Mazdoor Sangh and National Railway Mazdoor Union. As per provisions of law, un-recognized union is not permitted to represent any workman in any case, before the Tribunal.

7. According to the Party No. 1, Smt. Tarabai Sukhdeve, Ex-Saffaiwali, who is the mother of Shri. Rajesh Sukhdeve, was a permanent employee and hence the appropriate avenue of agitation is under Central Administrative Tribunal Act, is before the Central Administrative Tribunal and not the CGIT. So this Tribunal has no jurisdiction to entertain the service matters pertaining to the Central Government employees. They also submitted that, applicant has not mentioned that, under which provision and rule, he seeks compassionate appointment.

8. According to the Party No. 1, appointment on compassionate ground, Rajesh has been rejected by the Competent Authority due to reason that, "No one was dependent on deceased employee at the time of her death". They mentioned the details of family of late Smt. Tarabai Baburao Sukhdeve. According to them, Tarabai died on 02-03-2010 and Baburao died on 14-05-2005. There was no one dependent on Smt. Tarabai Baburao Sukhdeve at the time of her death and they also denied all material facts raised in statement of claim. According to them, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. According to them, "Compassionate grounds cannot be claimed as a right and they are permissible only in genuine cases as per rules, else it would violate the Constitution".

9. According to them, petitioner/applicant is not entitled to any relief. So statement of claim filed by the petitioner is devoid of merits and no case is made out for grant of any relief.

10. The union filed rejoinder on the same footing of statement of claim. According to the union, Party No. 1 did not file any documents in the matter of investigation of individual grievance under the said Act. They also prayed that, Sr. Divisional Personnel Officer, Central Railway, Nagpur has no locus standi, because he is not the Party in this dispute. They also prayed that, CGIT has jurisdiction and Sr. Divisional Personnel Officer has no jurisdiction to raise objection.

Point of determination:-

1. "Whether Rajesh is a legal heir of Smt. Tarabai Baburao Sukhdeve?"
2. "Whether he was dependent of Smt. Tarabai Baburao Sukhdeve at the time of her death?"
3. "Whether he is entitled for compassionate appointment in place of Smt. Tarabai Baburao Sukhdeve?"
4. "Whether he is entitled to any other relief?"

Reason for decision:-

11. On behalf of Union, it was argued that, Railway board authorized competent authority to make appointment on compassionate ground and Railway issued order on 27.12.1983 under which, Railway Board extended employment on compassionate ground to their wards on deceased employee, but competent authority illegally rejected the petitioner's claim. On the contrary, management denied this argument. Now, I want to see evidence part of the petitioner.

12. On behalf of petitioner, petitioner himself i.e. Rajesh Baburao Sukhdeve examined as P.W-1. In his chief examination, he support the version of statement of claim. According to him, his father Baburao died on 14.05.2005 and mother Tarabai died on 02.03.2010 i.e. after death of Baburao. He also admitted that, his sister Rekhabei (more than 50 years), Sadhnabai (43 years), Mayabai (45 years) and his brother Ravindra (48 years). He also admitted that, his sisters are married during the life of his parents. On behalf of Railway, it was admitted that, the date of death of Baburao and Tarabai and also admitted that, there are 5 members in his family and all are married. It is also admitted that, Tarabai is appointed as compassionate ground of Shri Baburao.

13. According to P.W.1 (Rajesh), "Railway illegally reject his claim, but according to him, he was eligible ward for the compassionate appointment due to the sudden death of bread winner", but personnel officer on unreasonable ground and violating well settled guidelines reject his denying claim for extending employment

and also asserted that, Party No.1 adapt pick and choose policy at their own. In the cross-examination, he admitted that, he did not know English and also admitted that, his father Baburao was working with railway and retire from the service. He do not know date and year of retirement, he also asserted that, he is unmarried, but according to Railway he is married. He did not show his age neither in statement of claim nor rejoinder. He also did not mention his age or date of birth at the time of evidence on affidavit. It shows that, he concealing some fact and do not file in document in support of their claim. In this way his evidence did not appear reliable.

14. On behalf of Railway, it was argued that, Parcel Porter Sanghathana the union has no locus standi and said union has not been given recognition by the Party No.1. They also argued that, petitioner is not member of that union, this was denied by the union. On the contrary, they argued that, thire registration no. is NGP-4403. It is correct to say that, petitioner Rajesh (P.W.1) in his statement admitted that, he did not file document showing registration and member of said union. According to him, Parcel Porter Sanghathan is registered under Railway. According to him, he authorized parcel Porter Sanghathan to file instant proceedings. On perusal of the record, it appears that, his parents Baburao and Tarabai both are railway employee. In this way, in my humble opinion, Parcel Porter Sanghathana has to raise this dispute of member of their wards. Moreover after failing reconciliation proceeding before R.L.C. this dispute referred by the competent authority under section 10 of I.D. Act. It is duty of RLC to see genuineness of the union before referring dispute to the Ministry. Moreover this Tribunal is bound to answer this reference. So, in my humble opinion, the union has locus standi and this reference is maintainable and argument of Party No. is unsustainable.

15. **Case laws:-**

Both parties advocate (Petitioner's advocate and Party No. 1's advocate) relied on following case laws: (a) Yogendra Pal Singh Vs. Union of India (A.I.R. 1987 SC 1015), (b) Employee in relation to the Management of Bhowra Area No. XI of M/S. BCCL, Dhanbad Vs. Presiding Officer, CGIT, Dhanbad, W.P. (L) No. 2412/2002, Order dated 26-07-2012 and (c) Employers in relation to management of Bastacolla Colliery BCCL, Dhanbad Vs. Dy. Chief labour commissioner (c), Dhanbad and Others, W.P.(L) No. 5805/2010, High Court Zarkhand Order dated 31-08-2016.

16. Now, I want to see the principles laid down in the above case laws –

- (a) (i) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. (ii) No citizen shall, on grounds only of religion race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.”
- (b) While it may be permissible to appoint a person who is the son of a police officer who dies in service or who is incapacitated while rendering service in the Police Department, a provision which confers a preferential right to appointment on the children or wards or other relatives of the police officers either in service or retired merely because they happen to be the children or wards or other relatives of such police officers would be contrary to Article 16 of the Constitution. Opportunity to get into public service should be extended to all the citizens equally and should not be confined to any extent to the descendants or relatives of a person already in the service of the State or who has retired from the service. In *Gazuila Dasaratha Ram Rao V. State of Andhra Pradesh* (1961) 2SCR 931 : (AIR 1961 SC 564) the question relating to the constitutional validity of section 6(1) of the Madras Hereditary Village Offices act, 1895 (3 of 1895) came up for consideration before this Court. That section provided that where two or more villages or portions thereof were grouped together or amalgamated so as to form a single new village or where any village was divided into two or more villages all the village officers of the class defined in section 3, clause (1) of that Act in the villages or portions of the villages or village amalgamated or divided as aforesaid would cease to exist and the new offices which were created for the new village or villages should be filled up by the Collector by selecting the persons whom he considered best qualified from among the families of the last holders of the offices which had been abolished. This Court held that, the said provision which required the Collector to fill up the said new offices by selecting persons from among the families of the last holders of the offices was opposed to Article 16 of the constitution. The Court observed in that connection at pages 940-941 and 946-947 (of SCR) : (at Pp. 569-70 and 572 of AIR) thus.
- (c) Article 15 is more general than Art. 16, the latter being confined to matters relating to employment or appointment to any office under the State. It is also worthy of note that Art. 15 does not mention ‘descent’ as one of the prohibited grounds of discrimination, whereas Art.16 does. We do not see any reason why the full ambit of the fundamental right guaranteed by Art. 16 in the matter of employment or appointment to any office under the State should be cut down by

a reference to the provisions in Part XIV of the Constitution which relate to services or to provisions in the earlier Constitution Acts relating to the same subject.....(Pages 940-91) (of SCR): (at p. 569-70 of AIR).

- (d) There can be no doubt that S. 6(1) of the Act does embody a principle of discrimination on the ground of descent only. It says that in choosing the person to fill the new offices, the Collector shall select the persons whom he may consider the best qualified from among the families of the last holders of the offices which have been abolished. This, in our opinion, is discrimination on the ground of descent only and is in contravention of Art. 16(2) of the Constitution. (pages 946-947) (of SCR) : (at p. 572 of AIR).
- (e) The Employee is not entitled for such any relief in terms of in clause 9.4.4 of National Coal Wages Agreement upon which he relies as the same to the contrary to the specific provisions of part-III of constitution.
- (f) However, it appears from perusal of judgment passed in the said case that the learned Single Judge of Patna High Court took note of the decision rendered by the Supreme Court declaring Clause 9.4.4 of NCWA-II as void and nonest in the eye of law and held that concerned workman did not have any legal right to get his ward appointed on attaining the age of superannuation. The reference made by the Central Government was held to be bad in law. However, an observation was made thereafter that in case the son of the concerned workman is eligible, the management shall consider his case for appointment in any vacant post along with all other eligible candidates. Such an observation was made in exercise of the powers under Sections 226 and 227 of the Constitution of India by the High Court. Even going by the said observation in the facts of the present case, it cannot be alleged that the petitioner management has refused to consider the case of the workman despite being eligible for appointment against any post notified through open advertisement calling for applications from all other eligible candidate.

17. Judging the present case in hand with the touchstone of principles laid down in the above case laws, it appears that this Tribunal has jurisdiction to decide this matter, so objection raised by the Party No. 1 is not sustainable. On perusal of the records, it also appears that, petitioner was not dependent on his mother at the time her death, because she had four married daughters and at the time of her death, the petitioner was near about at the age of 40 years. Petitioner also concealed the fact of his marital status. In my humble opinion, nobody can claim compassionate appointment as a right, because it is a public employment, which requires invitation of public applications and merits. The Hon'ble Supreme Court also held that, it is against the Constitution. Hence, it is ordered:

ORDER

The action of the management of Central Railway, Nagpur in declining the claim of Shri. Rajesh S/o Baburao Sukhdeve for compassionate appointment in lieu of death of his mother late Tarabai Baburao Sukhdeve is just fair and legal. The Petitioner is not entitled to any relief.

S.S. GARG, Presiding Officer

नई दिल्ली, 29 मई, 2020

का. आ. 454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या 67/2018-19) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.05.2020 को प्राप्त हुआ था।

[सं. एल-41011/23/2018-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 29th May, 2020

S.O. 454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2018-19) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Nagpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 29.05.2020.

[No. L-41011/23/2018-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR****Case No. CGIT/NGP/67/2018-19**

Date: 03.02.2020

Party No.1(a) : M/s. Three Star Service Co. Contractor
Represented by Shri Pramod Patil,
R/o 127, Rajnirmal Complex,
Somwar Peth, Karad ,
Distt. Satara – 415001.

Party No. 1(b) : The Divisional Commercial Manager,
Central Railway, Station Road,
Kingsway, Nagpur – 440001.

Versus

Party No. 2 : Shri Sitaram Lohekar,
State Council Member, Center of Indian Trade
Union (CITU), Vitthal Mandir Road,
Malgujaripura, Wardha PO/Tq. & Distt.
Wardha (M.S.) – 442001.

AWARD(Dated: 03rd February, 2020)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Railway and their Contractor, M/s Three Star Service Co. and their union, Center of Indian Trade Union (CITU) for adjudication, as per letter **No.L-41011/23/2018 IR (B-I) dated 24.12.2018**, with the following schedule:-

"Whether action of the contractor namely M/s Three Star Services Co. of Central Railway in orally terminating the services of three contract workmen namely (i) Sh. Abhishek Kailasar (ii) Sh. Santosh Sahare & (iii) Sh. Sonu Mogriya w.e.f. 18.05.2018 working in Sewagram Railway Station of Central Railway as 'Safai Kamgar', is legal and justified? If not, to what relief to these contract workmen are entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledge due. On 09.08.2019, Shri Nitin Lambat, advocate filed vakalatnama for the Party No. 1(b) i.e. The Divisional Commercial Manager, Central Railway, but nobody appeared on behalf of the Party No. 1(a) i.e. the contractor, M/s Three Star Service Co. as well as for the petitioner.

3. After perusal of the records, it appears that, from 27.06.2019 to 27.09.2019, Party No. 2/petitioner neither appeared nor filed statement of claim. On 27.09.2019, order of issuing of fresh notice to the petitioner was passed and accordingly, notice was issued to the Party No. 2/petitioner, but nobody appeared on behalf of the Party No. 2/petitioner till 03.02.2020. On 03.02.2020, advocate for the Party No. 1(b) i.e. Central Railway, filed an application for dismissal of the proceedings, which is marked as I.A. No. 1. It appears from the records that, petitioner/Party No. 2 is not interested to proceed further with this reference. So, application I.A. No. 1 filed by the Party No. 1(b) is allowed. Hence, it is ordered:

ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

S. S. GARG, Presiding Officer

नई दिल्ली, 29 मई, 2020

का. आ. 455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 37/2015-16) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.05.2020 को प्राप्त हुआ था।

[सं. एल-41011/67/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 29th May, 2020

S.O. 455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2015-16) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Nagpur as shown in the Annexure, in the industrial dispute between the management of South Eastern Central Railway and their workmen, received by the Central Government on 29.05.2020.

[No. L-41011/67/2015-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE**BEFORE SHRI S.S. GARG, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR****Case No. CGIT/NGP/37/2015-16**

Date: 10.02.2020.

Party No. 1(a) The Divisional Railway Manager,
South Eastern Central Railways,
Bilaspur (CG)
BILASPUR

Party No. 1(b) The Sr. Divisional Commercial Manager,
South East Central Railway,
Kingsway Station Road
Nagpur-440001

Party No. 1(c) The Chief Parcel Supervisor,
South East Central Railway,
Parcel Office,
Gondia.

V/s

Party No. 2: The General Secretary,
Parcel Porter Sanghatana,
New Mankapur, Plot No.37,
Mhada Colony ke pass,
Nagpur-440030.

AWARD(Dated: 10th February, 2020)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the Management of South Eastern Central Railway and their workman, Shri Sunil Hemchand Sahare through the union, for adjudication, as per letter No. L-41011/67/2015-IR(B-I) dated 11.12.2015 and corrigendum dated 16/12/2015 with the following schedule:-

1. "Whether Shri Sunil Hemchand Sahare, License Porter is a workman?"
2. "Whether the action of the management not to allow him to work even after receiving the license fee up to November, 2011 and sudden seizure of badge without any show cause is legal and justified? If not, then what relief Sh. Sunil Hemchand Sahare, License Porter is entitled to?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement. In response to which, the workman Shri Sunil Hemchand Sahare ("The workman" in short) through his union ("The union" in short) filed the statement of claim and the management of SECR, ("Party No.1" in short) filed the written statement.

3. On behalf of union and workman, statement of claim was filed by asserting the following facts:-

- i) "That, the Parcel Porters Sanghatana is a registered Trade Union under the Indian Trade Unions Act, 1929 vide Registration No. NGP: 4403, dated 29/07/1997. The claimant is the member of the Union."
- ii) "That, the Applicant obtained his Metal Badge to perform his duties as Station licensed Porter at Gondia Railway Station of South East Central Railway of Nagpur Division. The License issued to him as an authorization to perform his duty as licensed porter under Rule 3014 & 3015 of Indian Railway. Applicant undergone Medical Fitness and found it fit for such job. The fit certificate issued by the Medical Officer I/C Railway Hospital Nagpur."
- iii) "There is strong relationship exist in between the workman Applicant with the Management of Senior Divisional Commercial Manager S.E.C. Railway of Nagpur Division. The workman was regularly, promptly performing his regular duties with the Station Manager S.E.C. RAILWAY Gondia, and during the Commercial Officer visit the said officer snatched the license from the Porter without valid reason."
- iv) "That, the workman is livelihood is depending on it. He is the bread winner of his family and such rude behavior is misuse of official position. It is unfair labour means & violation of law."

And prayed that, respondent No. 1 be ordered to return his badge to earn for his livelihood immediately & also prayed that, he is entitled to lay off compensation and other relieves.

4. Management/Party No. 1 filed reply by denying the contents of para no. 1, 4, 5, 9, 14 and 15 i.e. the material facts, which were asserted in the statement of claim, in following ways:-

- i) "That, the applicant has filed the present application through the Parcel Porter Sanghatana alleged to be registered Trade Union under the Trade Unions Act, 1929 but has miserably failed to filed the certain registration on the record and it is also specifically denied that, the applicant is the member of the said union through which he has filed the present application."
- ii) "That, the applicant has not produced any medical fitness from the competent medical authorities i.e. Medical Officer of Railway Hospital Nagpur on the record and therefore the contents are denied specifically and also submitted that, the applicant has got falsely prepared the I card to be used as license porter within the railway platform of Gondia Railway Station. As it was discovered that the applicant has wrongly using the badge No. 60 without any authority therefore the said badge No. 60 was taken out from the custody of the applicant."
- iii) "That, it is bounding duty upon the officials of the respondent No. 1 to curve and restrict the persons working unauthorisedly on the railway platform wearing the dress of porters imitating that they are license porter therefore there was nothing wrong on the part of officials of the respondent No.1 to taken out the badge No. 60 from the custody of the applicant. The officials of the respondent No.1 have not violated any rules and regulations as per the railway manual."
- iv) "That, It is not within the knowledge of the answering respondent as to whether the applicant is the only bread earner in his family but due to misdeed of the applicant he has to save his own guilt and for that the respondent No. 1 should not be held responsible or liable to compensate him in terms of the prayer clause as prayed for."

And prayed that, applicant/petitioner is not entitled/relief. They also submitted that, porter license may be transfer to his son or if he has not son or his son is no alive to his nearest relative in the event of death.

- v) "Management also submitted that, affidavit produced by the license porter under the seal of the Magistrate may be taken as a proof of the dependents of the family on the license porter and the nature of relationship of the nominee and the person in whose favour the license is transfer should be physically fit to perform the duty of license porter and this should also be certified by the Medical Officer from the Government Railway Hospital. The said provisions has not been compiled by the applicant and therefore the grievance of the applicant should be rejected and it be rejected with heavy compensatory costs."

5. The union/workman did not file any rejoinder. On the basis of the pleadings of both parties, following **Points of Determination** is fixed:-

- i) Whether sudden seizure of badge is illegal?
- ii) Whether the action of the management/Party No. 1 for not to allow the applicant/workman for work after November 2011 is legal and justified?
- iii) Whether workman is entitled to any relief?

Reason for Decisions:

6. On behalf of the Union/Party No. 2, it was argued that, he obtained Metal Badge to perform his duties as Station license porter. He undergone Medical Fitness and he paid license fees and obtained metal Badge with uniform and identity card, but Commercial Officer snatched his license without valid reason. This argument was denied by management/Party No. 1 by submitting the following facts:-

- (i) That, the said union is not at all legally authorized to represent the case of the applicant as claimed.
- (ii) That, Badge No.60 was used by a fictitious person for illegal personal gain and when it was discovered by the officials of non-applicant No.1 the said Badge No.60 was seized. Therefore, there is no illegality on the part of the officials of Party No.1.

Now I want to see the evidence part.

7. Petitioner Sunil Hemchand Sahare examined himself as a witness (PW-1) and management/Party No. 1 examined the Chief Office Superintendent, Smt. K. Mangamma. They were cross-examined by the opposite party. Now I want to see the evidence of petitioner first.

Sunil (PW-1) supported his statement of claim in his chief examination, but in his cross examination he admitted some following facts:-

- i) "It is true to say that, I have not filed any document showing the registration of the union"..... I do not know that, Badge No.60 had been originally issued to whom.....I do not know about the contents mentioned in evidence on affidavit. I am 10th fail . I do not know English and Law."
- ii) "I do not know whether I have mentioned this fact in my statement of claim or not. It is true to say that, I am not the legal representative of original holder of the Badge. I do not know whether the Badge no. 60 was in the name of Shri Ramesh thakur. "

On perusal of the statement of Sunil Hemchand Sahare, it appears that, he has no knowledge of English and law. He is only 10th class failed. It also appears that, he is genuine witness. Now I want to see the evidence of the Management/Party No. 1.

8. Management/Party No. 1 witness, Smt. K. Mangamma Rao (MW-1) in her examination chief, supported the defence of Party No. 1, but in her cross examination, she admitted some facts:-

- i) "It is correct to say that I am not a competent authority to take decision on behalf of railway/management. Witness voluntarily says that I have been nominated by Sr. Divisional Commercial Manager. It is not correct to say that Hemchand was working as licensed porter at Gondia railway station from 2011. It is not correct to say that ACM, **Mr. Pal** seized the badge no. 60 from petitioner, Sunil Hemchand Sahare at Gondia Station. Witness voluntarily says that, no badge was issued in favour of Shri Sunil Hemchand Sahare. It is correct to say that Ramesh Thakur is a "Sala" of Sunil Sahare. Witness voluntarily says that, this badge no.60 is not valid because, badge cannot be transferred to jija as per Railway Board Circular, Exhibit- M-I. Badge can be transferred on the relation, given in the above circular."
- ii) "It is true to say that, I asserted in above statement that, I have no knowledge about the receipt W-II and W-III, but about the badge transfer. I came to know from Circular M-I. It is not true to say that, we have received RS.350/- from Sunil Sahare for badge transfer. It is true to say that, Medical Examination had been done of Sunil Sahare. I have no knowledge, whether Sunil Sahare deposited monthly license fees in Gondia Railway Station. It is true to say that, Railway Circular No. 2920, Exhibit W-IV is in force.

- iii) “Witness volunteers that, circular is amended for time to time by Railway Board, so latest circular, M-I is in force.”

On perusal of the statement of MW-1, it appears that, she is the Chief Office Superintendent in S.E.C. Railway. So it is quite possible that, she did not personally know about the petitioner. Party No. 1 (Railway) did not examine the Senior D.C.M. or Chief Parcel Porter Supervisor or the Station Master. They did not produce original record of Sunil Sahare or Ramesh Thakur, in which, they deposited renewal fees of license porter. So Party No. 1's evidence is not appearing to be genuine, but it is formality. It also appears that, Party No.1 did not come in clean hand.

9. Party No. 1 took an objection on the maintainability of this petition, on the ground of (i) That Parcel Porter Sanghathana is not a registered union and petitioner is not a member of this Union. On perusal of the statement of Sunil Sahare (PW-1), it appears that, he filed this claim on behalf of union, but he did not file any documents regarding registration of this Union, but on perusal of the record it appears that, union filed Xerox copy of letter head, in which, union registration number is mentioned as NGP: 4403, dated 29/07/1997. This fact was not denied by the Party no. 1 by filing relevant documents. On the other hand, this case firstly came before RLC for conciliation, but Party No. 1 Railway failed to conciliate the matter before RLC. It was duty of the RLC to check the genuineness of the Union. This matter was referred from Ministry of Labour and Employment. This Tribunal is duty bound to answer this reference. So in my humble opinion, on the basis of technicality, genuine claim cannot not be rejected.

10. On going the above discussion, it appears that, (On perusal of document M-1 and M-4 and para 8 and 9 of evidence on affidavit of MW-1) it appears that, Badge of License Porter may be transferred to her/his near relatives including brother's son or wife's brother. In this case, he is the jija/brother-in-law of original Badge holder. Nothing in this record appears that, he is illegible for the post of License Porter. In the above discussion, I also observed that, Party no.1/Railway did not examine the concerned person. So adverse inference can be drawn against the Party No. 1 and workman, Sunil Hemchand Sahare is entitled to transfer of badge of licensed porter of his sala/brother-in-law, Ramesh Thakur. Hence it is ordered:

ORDER

- (i) **Shri Sunil Hemchand Sahare, License Porter is a workman for the propose of Industrial Disputes Act, 1947.**
- (ii) **The action of the management not to allow him to work even after receiving the license fee up to November 2011 and sudden seizure of badge without any show cause is not legal and justified. Shri Sunil Hemchand Sahare is entitled to transfer of badge of licensed porter of his sala/brother-in-law, Shri Ramesh Thakur, but he is not entitled to original badge of his sala/brother-in-law, Ramesh Thakur. Petitioner is entitled of Rs. 15,000/- (Rupees fifteen thousand only) as compensation in lieu of harassment, pain and suffering. Management/Party No. 1 is directed to comply the order within one month from the date of publication of this award in official gazette, failing which, workman is entitled for interest of 6% per annum from the date of dues amount. The workman is not entitled for any other relief.**

S. S. GARG, Presiding Officer

नई दिल्ली, 8 जून, 2020

का. आ. 456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 30/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2020 को प्राप्त हुआ था।

[सं. एल-41012/65/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 8th June, 2020

S.O. 456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 08.06.2020.

[No. L-41012/65/2012-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM- LABOUR COURT, LUCKNOW

PRESENT : RAKESH KUMAR, PRESIDING OFFICER

I.D. No. 30/2013

Ref. No. L-41012/65/2012-IR(B-I) dated: 11.03.2013

BETWEEN :

Shri Avinash S/o Shri Pratap
Vill. Bajramu Post Chhobepur
Kanpur Nagar

AND

1. The Divisional Railway Manager
Northern Railway
DRM, Hajratganj, Lucknow.
2. M/s. Shahid Faizan Ahmed and Brothers
654, Begum ka Makbara
Janpad Faizabad.

AWARD

1. By order No. L-41012/65/2012-IR(B-I) dated: 11.03.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Shri Avinash S/o Shri Pratap, Vill. Bajramu Post Chhobepur, Kanpur Nagar and the Divisional Railway Manager, Northern Railway, DRM, Hajratganj, Lucknow & M/s Shahid Faizan Ahmed and Brothers, 654, Begum ka Makbara, Janpad Faizabad for adjudication.

1. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF NORTHERN RAILWAY, LUCKNOW AND M/S SHAHID FAIZAN AHMED & BROTHERS, FAIZABAD IN TERMINATING THE SERVICES OF SHRI AVINASH S/O SRI PRATAP SINGH W.E.F. 25.04.2009 IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

2. The case of the workman, in brief, is that he had been appointed through opposite party No. 2 to work for opposite party No. 1 as Driver Box Porter on 01.09.2003. The workman has stated that the work done by him was perennial in nature and he worked continuously upto 25.04.2009 for more than 240 days, continuously for more than 120 days, when his services were terminated without any notice pay or retrenchment compensation, in violation to the provisions of Section 25 F of the Act. He has also submitted that after his termination, new employees have been recruited in his place, in violation to the provisions of section 25 H of the Act; accordingly, the workman has prayed that he may be reinstated with back wages and continuity in service.

3. The opposite party No. 01 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01; moreover the railway management entered into an agreement with the opposite party No. 02 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate

him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 2 did not file any written statement in spite of repeated notices.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. After filing of rejoinder, the workman abstained himself from the proceedings w.e.f. 16.08.2016 and neither filed any list of documents in support of its pleadings; nor corroborated the same though oral evidence; accordingly, in rebuttal the management also preferred not to file any evidence; resultantly, the case was fixed for arguments.

7. The authorized representative of the management of OP No. 1 argued his case; whereas none tried up from either the workman or the OP No.2.

8. Heard the authorized representatives of the OP No. 1 only, Sri U.K. Bajpai and perused entire material available on record.

10. In *M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary vs. Presiding Officer, Labour Court (II), Ghaziabad & others 2008 (118) FLR 1164*, Hon'ble High Court relied upon the law settled by the Apex Court in *Sanker Chakravarti vs. Britannia Biscuit Co. Ltd. 1979 (39) FLR 70 (SC)*, *V.K. Raj Industries v. Labour Court and others 1979 (39) FLR 70 (SC)*, *Airtech Private Limited v. State of U.P. and others 1984 (49) FLR 38* and *(Alld.) Meritech India Ltd. v. State of U.P. and others 1996 (74) FLR 2004*; wherein it was observed by the Apex Court:

“that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”

9. In the present case the workman failed to prove his case as he neither filed any documentary or oral evidence in support of his pleadings; nor did he turn up for his cross-examination. Mere pleadings are no substitute for proof. It was obligatory on the part of workman union to come forward with the case that his services have illegally been terminated by the opposite parties in utter violation of the statutory provisions. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of opposite parties in terminating his services was either illegal or unjustified.

13. Accordingly, the reference under adjudication is adjudicated against the workman; and as such, I come to the conclusion that the workman is not entitled to any of the relief(s) claimed.

10. Award as above.

LUCKNOW

09th August, 2019

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 8 जून, 2020

का. आ. 457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 25/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2020 को प्राप्त हुआ था।

[सं. एल-41012/59/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 8th June, 2020

S.O. 457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 08.06.2020.

[No. L-41012/59/2012-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM- LABOUR COURT, LUCKNOW

PRESENT : RAKESH KUMAR, PRESIDING OFFICER

I.D. No. 25/2013

Ref. No. L-41012/59/2012-IR(B-I) dated: 11.03.2013

BETWEEN :

Shri Deepu S/o Shri Girish Chand
T-37, Railway Colony
District : Unnao (UP)

AND

1. The Divisional Railway Manager
Northern Railway
DRM, Hajratganj, Lucknow.
2. M/s. Shahid Faizan Ahmed and Brothers
654, Begum ka Makbara
Janpad Faizabad.

AWARD

1. By order No. L-41012/59/2012-IR(B-I) dated: 11.03.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Shri Deepu S/o Shri Girish Chand, T-37, Railway Colony, District : Unnao (UP) and the Divisional Railway Manager, Northern Railway, DRM, Hajratganj, Lucknow & M/s Shahid Faizan Ahmed and Brothers, 654, Begum ka Makbara, Janpad Faizabad for adjudication.

1. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF NORTHERN RAILWAY, LUCKNOW AND M/S SHAHID FAIZAN AHMED & BROTHERS, FAIZABAD IN TERMINATING THE SERVICES OF SHRI DEEPU S/O SHRI GIRISH CHAND W.E.F. 25.04.2009 IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

2. The case of the workman, in brief, is that he had been appointed through opposite party No. 2 to work for opposite party No. 1 as Driver Box Porter on 03.05.2005. The workman has stated that the work done by him was perennial in nature and he worked continuously upto 25.04.2009 for more than 240 days, continuously for more than 120 days, when his services were terminated without any notice pay or retrenchment compensation, in violation to the provisions of Section 25 F of the Act. He has also submitted that after his termination, new employees have been recruited in his place, in violation to the provisions of section 25 H of the Act; accordingly, the workman has prayed that he may be reinstated with back wages and continuity in service.

3. The opposite party No. 01 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01; moreover the railway management entered into an agreement with the opposite party No. 02 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate

him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 2 did not file any written statement in spite of repeated notices.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. After filing of rejoinder, the workman abstained himself from the proceedings w.e.f. 07.12.2016 and neither filed any list of documents in support of its pleadings; nor corroborated the same though oral evidence; accordingly, in rebuttal the management also preferred not to file any evidence; resultantly, the case was fixed for arguments.

7. The authorized representative of the management of OP No. 1 argued his case; whereas none tried up from either the workman or the OP No.2.

8. Heard the authorized representatives of the OP No. 1 only, Sri U.K. Bajpai and perused entire material available on record.

10. In *M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary vs. Presiding Officer, Labour Court (II), Ghaziabad & others* 2008 (118) FLR 1164, Hon'ble High Court relied upon the law settled by the Apex Court in *Sanker Chakravarti vs. Britannia Biscuit Co. Ltd.* 1979 (39) FLR 70 (SC), *V.K. Raj Industries v. Labour Court and others* 1979 (39) FLR 70 (SC), *Airtech Private Limited v. State of U.P. and others* 1984 (49) FLR 38 and (All.) *Meritech India Ltd. v. State of U.P. and others* 1996 (74) FLR 2004; wherein it was observed by the Apex Court:

“that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”

9. In the present case the workman failed to prove his case as he neither filed any documentary or oral evidence in support of his pleadings; nor did he turn up for his cross-examination. Mere pleadings are no substitute for proof. It was obligatory on the part of workman union to come forward with the case that his services have illegally been terminated by the opposite parties in utter violation of the statutory provisions. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of opposite parties in terminating his services was either illegal or unjustified.

13. Accordingly, the reference under adjudication is adjudicated against the workman; and as such, I come to the conclusion that the workman is not entitled to any of the relief(s) claimed.

10. Award as above.

LUCKNOW

09th August, 2019

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 8 जून, 2020

का. आ. 458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 27/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2020 को प्राप्त हुआ था।

[सं. एल-41012/62/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 8th June, 2020

S.O. 458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 08.06.2020.

[No. L-41012/62/2012-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM- LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR, PRESIDING OFFICER

I.D. No. 27/2013

Ref. No. L-41012/62/2012-IR(B-I) dated: 13.03.2013

BETWEEN:

Shri Rajendera Prasad S/o Shri Shiv Lal
Village Rkibabad, Post. Mohari Khurd
District : Lucknow (UP)

AND

1. The Divisional Railway Manager
Northern Railway
DRM, Hajratganj, Lucknow.
2. M/s. Shahid Faizan Ahmed and Brothers
654, Begum ka Makbara
Janpad Faizabad.

AWARD

1. By order No. L-41012/62/2012-IR(B-I) dated: 13.03.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Shri Rajendera Prasad S/o Shri Shiv Lal, Village Rkibabad, Post. Mohari Khurd, District : Lucknow (UP) and the Divisional Railway Manager, Northern Railway, DRM, Hajratganj, Lucknow & M/s Shahid Faizan Ahmed and Brothers, 654, Begum ka Makbara, Janpad Faizabad for adjudication.

1. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF NORTHERN RAILWAY, LUCKNOW AND M/S SHAHID FAIZAN AHMED & BROTHERS, FAIZABAD IN TERMINATING THE SERVICES OF SHRI NAND KUMAR S/O JATA SHANKAR W.E.F. 25.04.2009 IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

2. The case of the workman, in brief, is that he had been appointed through opposite party No. 2 to work for opposite party No. 1 as Driver Box Porter on 01.09.2003. The workman has stated that the work done by him was perennial in nature and he worked continuously upto 25.04.2009 for more than 240 days, continuously for more than 120 days, when his services were terminated without any notice pay or retrenchment compensation, in violation to the provisions of Section 25 F of the Act. He has also submitted that after his termination, new employees have been recruited in his place, in violation to the provisions of section 25 H of the Act; accordingly, the workman has prayed that he may be reinstated with back wages and continuity in service.

3. The opposite party No. 01 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01; moreover the railway management entered into an agreement with the opposite party No. 02 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate

him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 2 did not file any written statement in spite of repeated notices.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. After filing of rejoinder on 09.06.2014, the workman abstained himself from the proceedings and neither filed any list of documents in support of its pleadings; nor corroborated the same though oral evidence; accordingly, in rebuttal the management also preferred not to file any evidence; resultantly, the case was fixed for arguments.

7. The authorized representative of the management of OP No. 1 argued his case; whereas none tried up from either the workman or the OP No.2.

8. Heard the authorized representatives of the OP No. 1 only, Sri U.K. Bajpai and perused entire material available on record.

10. In *M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary vs. Presiding Officer, Labour Court (II), Ghaziabad & others* 2008 (118) FLR 1164, Hon'ble High Court relied upon the law settled by the Apex Court in *Sanker Chakravarti vs. Britannia Biscuit Co. Ltd.* 1979 (39) FLR 70 (SC), *V.K. Raj Industries v. Labour Court and others* 1979 (39) FLR 70 (SC), *Airtech Private Limited v. State of U.P. and others* 1984 (49) FLR 38 and (Alld.) *Meritech India Ltd. v. State of U.P. and others* 1996 (74) FLR 2004; wherein it was observed by the Apex Court:

“that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”

9. In the present case the workman failed to prove his case as he neither filed any documentary or oral evidence in support of his pleadings; nor did he turn up for his cross-examination. Mere pleadings are no substitute for proof. It was obligatory on the part of workman union to come forward with the case that his services have illegally been terminated by the opposite parties in utter violation of the statutory provisions. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of opposite parties in terminating his services was either illegal or unjustified.

13. Accordingly, the reference under adjudication is adjudicated against the workman; and as such, I come to the conclusion that the workman is not entitled to any of the relief(s) claimed.

10. Award as above.

LUCKNOW

12th July, 2019

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 8 जून, 2020

का. आ. 459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 29/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2020 को प्राप्त हुआ था।

[सं. एल-41012/64/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 8th June, 2020

S.O. 459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 08.06.2020.

[No. L-41012/64/2012-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT
LUCKNOW**

PRESENT: RAKESH KUMAR, PRESIDING OFFICER

I.D. No. 29/2013

Ref. No. L-41012/64/2012-IR(B-I) dated: 11.03.2013

BETWEEN :

Shri Kausalendra Singh S/o Late Shri Chandveer Singh
Vill. & Post Azgain
District – Lucknow

AND

1. The Divisional Railway Manager
Northern Railway
DRM, Hajratganj, Lucknow.
2. M/s. Shahid Faizan Ahmed and Brothers
654, Begum ka Makbara
Janpad Faizabad.

AWARD

1. By order No. L-41012/64/2012-IR(B-I) dated: 11.03.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Shri Kausalendra Singh S/o Late Shri Chandveer Singh, Vill. & Post Azgain, District – Lucknow and the Divisional Railway Manager, Northern Railway, DRM, Hajratganj, Lucknow & M/s Shahid Faizan Ahmed and Brothers, 654, Begum ka Makbara, Janpad Faizabad for adjudication.

1. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF NORTHERN RAILWAY, LUCKNOW AND M/S SHAHID FAIZAN AHMED & BROTHERS, FAIZABAD IN TERMINATING THE SERVICES OF SHRI KAUSALENDRA SINGH S/O LATE SHRI CHANDVEER SINGH W.E.F. 25.04.2009 IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

2. The case of the workman, in brief, is that he had been appointed through opposite party No. 2 to work for opposite party No. 1 as Driver Box Porter on 01.09.2003. The workman has stated that the work done by him was perennial in nature and he worked continuously upto 25.04.2009 for more than 240 days, continuously for more than 120 days, when his services were terminated without any notice pay or retrenchment compensation, in violation to the provisions of Section 25 F of the Act. He has also submitted that after his termination, new employees have been recruited in his place, in violation to the provisions of section 25 H of the Act; accordingly, the workman has prayed that he may be reinstated with back wages and continuity in service.

3. The opposite party No. 01 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01; moreover the railway management entered into an agreement with the opposite party No. 02 for executing the

day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour practice; hence it has been prayed by the opposite party No. 1 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 2 did not file any written statement in spite of repeated notices.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. After filing of rejoinder, the workman abstained himself from the proceedings w.e.f. 16.08.2016 and neither filed any list of documents in support of its pleadings; nor corroborated the same though oral evidence; accordingly, in rebuttal the management also preferred not to file any evidence; resultantly, the case was fixed for arguments.

7. The authorized representative of the management of OP No. 1 argued his case; whereas none tried up from either the workman or the OP No.2.

8. Heard the authorized representatives of the OP No. 1 only, Sri U.K. Bajpai and perused entire material available on record.

10. In *M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary vs. Presiding Officer, Labour Court (II), Ghaziabad & others* 2008 (118) FLR 1164, Hon'ble High Court relied upon the law settled by the Apex Court in *Sanker Chakravarti vs. Britannia Biscuit Co. Ltd.* 1979 (39) FLR 70 (SC), *V.K. Raj Industries v. Labour Court and others* 1979 (39) FLR 70 (SC), *Airtech Private Limited v. State of U.P. and others* 1984 (49) FLR 38 and (Alld.) *Meritech India Ltd. v. State of U.P. and others* 1996 (74) FLR 2004; wherein it was observed by the Apex Court:

"that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

9. In the present case the workman failed to prove his case as he neither filed any documentary or oral evidence in support of his pleadings; nor did he turn up for his cross-examination. Mere pleadings are no substitute for proof. It was obligatory on the part of workman union to come forward with the case that his services have illegally been terminated by the opposite parties in utter violation of the statutory provisions. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of opposite parties in terminating his services was either illegal or unjustified.

13. Accordingly, the reference under adjudication is adjudicated against the workman; and as such, I come to the conclusion that the workman is not entitled to any of the relief(s) claimed.

10. Award as above.

LUCKNOW

09th August, 2019

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 8 जून, 2020

का. आ. 460.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 33/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2020 को प्राप्त हुआ था।

[सं. एल-41012/68/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 8th June, 2020

S.O. 460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 08.06.2020.

[No. L-41012/68/2012-IR(B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT : RAKESH KUMAR, PRESIDING OFFICER

I.D. No. 33/2013

Ref. No. L-41012/68/2012-IR(B-I) dated: 11.03.2013

BETWEEN :

Shri Moti Lal S/o Shri Putti Lal
Vill. & Post Hiloli, MKC
District : Unnao (UP)

AND

1. The Divisional Railway Manager
Northern Railway
DRM, Hajratganj, Lucknow.
2. M/s. Shahid Faizan Ahmed and Brothers
654, Begum ka Makbara
Janpad Faizabad.

AWARD

1. By order No. L-41012/68/2012-IR(B-I) dated: 11.03.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Shri Moti Lal S/o Shri Putti Lal Vill. & Post Hiloli, MKC, District : Unnao (UP) and the Divisional Railway Manager, Northern Railway, DRM, Hajratganj, Lucknow & M/s Shahid Faizan Ahmed and Brothers, 654, Begum ka Makbara, Janpad Faizabad for adjudication.

1. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF NORTHERN RAILWAY, LUCKNOW AND M/S SHAHID FAIZAN AHMED & BROTHERS, FAIZABAD IN TERMINATING THE SERVICES OF SHRI MOTI LAL S/O SHRI PUTTI LAL 25.04.2009 IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

2. The case of the workman, in brief, is that he had been appointed through opposite party No. 2 to work for opposite party No. 1 as Driver Box Porter on 01.09.2003. The workman has stated that the work done by him was perennial in nature and he worked continuously upto 25.04.2009 for more than 240 days, continuously for more than 120 days, when his services were terminated without any notice pay or retrenchment compensation, in violation to the provisions of Section 25 F of the Act. He has also submitted that after his termination, new employees have been recruited in his place, in violation to the provisions of section 25 H of the Act; accordingly, the workman has prayed that he may be reinstated with back wages and continuity in service.

3. The opposite party No. 01 has disputed the claim of the workman by filing its written statement; wherein it has mentioned that the workman had never been engaged/appointed by the opposite party No. 01; moreover the railway management entered into an agreement with the opposite party No. 02 for executing the day to day casual work at railway stations; and accordingly, the railway administration is not liable for any claim made by the workman as the railway administration neither engaged the workman nor did it terminate him; and also that it did not make any violation of any labour law or engaged in any kind of unfair labour

practice; hence it has been prayed by the opposite party No. 1 that the claim of the workman be rejected without any relief to him being devoid of merit.

4. The opposite party No. 2 did not file any written statement in spite of repeated notices.

5. The workman has filed its rejoinder wherein he has denied the counter allegations of the opposite parties reiterating the averments already made in the statement of claim.

6. After filing of rejoinder on 09.06.2014, the workman abstained himself from the proceedings and neither filed any list of documents in support of its pleadings; nor corroborated the same though oral evidence; accordingly, in rebuttal the management also preferred not to file any evidence; resultantly, the case was fixed for arguments.

7. The authorized representative of the management of OP No. 1 argued his case; whereas none tried up from either the workman or the OP No.2.

8. Heard the authorized representatives of the OP No. 1 only, Sri U.K. Bajpai and perused entire material available on record.

9. In *M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary vs. Presiding Officer, Labour Court (II), Ghaziabad & others* 2008 (118) FLR 1164, Hon'ble High Court relied upon the law settled by the Apex Court in *Sanker Chakravarti vs. Britannia Biscuit Co. Ltd.* 1979 (39) FLR 70 (SC), *V.K. Raj Industries v. Labour Court and others* 1979 (39) FLR 70 (SC), *Airtech Private Limited v. State of U.P. and others* 1984 (49) FLR 38 and (Alld.) *Meritech India Ltd. v. State of U.P. and others* 1996 (74) FLR 2004; wherein it was observed by the Apex Court:

“that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”

10. In the present case the workman failed to prove his case as he neither filed any documentary or oral evidence in support of his pleadings; nor did he turn up for his cross-examination. Mere pleadings are no substitute for proof. It was obligatory on the part of workman union to come forward with the case that his services have illegally been terminated by the opposite parties in utter violation of the statutory provisions. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of opposite parties in terminating his services was either illegal or unjustified.

11. Accordingly, the reference under adjudication is adjudicated against the workman; and as such, I come to the conclusion that the workman is not entitled to any of the relief(s) claimed.

12. Award as above.

LUCKNOW

11th July, 2019

RAKESH KUMAR, Presiding Officer